

WHEREAS, the Licensee's case was brought before the Board on February 19, 2016. The Board reviewed the case regarding unprofessional conduct and also reviewed the PDMP information regarding Licensee's use of controlled substances; and

WHEREAS, based upon the information received, the Board unanimously voted to mandate the Licensee into the Health Professionals Assistance Program ("HPAP"). A letter was sent to the Licensee on February 25, 2016, outlining the Board's recommendation for enrollment in HPAP; and

WHEREAS, on March 15, 2016, the Board received information from the Licensee that she did not plan to complete her HPAP application. On March 23, 2016, the Board received information from the Hughes County State's Attorney that Licensee would likely be charged with obtaining a controlled substance by fraud or misrepresentation and obtaining controlled substances concurrently from different practitioners; and

WHEREAS, on May 2, 2016, a record search from the South Dakota Unified Judicial Systems documented a warrant for two felony counts of misrepresentation to obtain controlled substance and two misdemeanor counts of obtaining controlled substance from different medical providers; and

WHEREAS, based upon the affidavit of Francie Miller and the above stated conduct, the Board has concluded that Licensee's actions constitute unprofessional conduct and require emergency action, in that Licensee's actions may endanger the health and safety of those who are, or will be, entrusted to her care in the future; and

WHEREAS, the Board, has a statutory obligation to protect the health, safety and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners.

NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee and the subject matter of this Order.
2. That based on the above, the Board specifically finds that the public health, safety and welfare require emergency action against Licensee's license.
3. That based on the above, the Board specifically finds that the actions of the Licensee endanger the public health, safety and welfare, and imperatively require emergency action in that Licensee may endanger the health and safety of those persons who are or will be entrusted to her care in the future and that these are matters of a nature that would constitute further grounds for discipline of her license to practice nursing under SDCL § 36-9-49 (4), (5), (7) and (10).
4. Based upon these findings, Licensee's license to practice nursing in South Dakota is hereby summarily suspended. Licensee may petition according to SDCL § 36-9-57 for reinstatement of her license at any time for "good cause."
5. That Licensee shall turn in her license to the Board within ten (10) days from the date of this Order and it shall be kept by the Board until further action on this matter.

6. Licensee is hereby notified that any practice of or holding herself out as a registered nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

7. This action is reportable discipline and will be published in the Board's newsletter and posted on its website and reported into the National Practitioner Data Bank (NPDB) as required by law.

The South Board of Nursing met on the 21st day of April, 2016, and approved this Order of Summary Suspension by a vote of 7 - 0, and issues its Order of Summary Suspension consistent herein as follows:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 4th day of May, 2016.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, RN, MS
Executive Director

NOTICE OF HEARING

The South Dakota Board of Nursing ("Board") pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Erin C. Nemece, RN, License No. R042452 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on June 9th, 2016, at 2:00 pm. at the office of the South Dakota Board of Nursing, 4305 S. Louise Avenue, Suite 201, Sioux Falls, South Dakota.

2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.

3. The hearing will address the Board's assertion, as set forth in its Summary Suspension, that the Licensee, by her conduct, violated SDCL §§ 36-9-49 (4), (5), (7) and (10).


4. At the hearing, the Board will determine whether the Licensee's license shall be suspended, revoked or subject to other disciplinary action as determined by the evidence presented.

5. Licensee has a right to request that the agency use the Office of Hearing Examiners for this proceeding by giving notice of the request to the Board no later than ten (10) days after the service of this Notice of Hearing on Order of Summary Suspension.

6. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 4th day of May, 2016.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, RN, MS
Executive Director