

**SOUTH DAKOTA BOARD OF NURSING**

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IN THE MATTER OF THE LICENSURE  
PROCEEDINGS :

**DOH. 18-14**

RE: SHELLY HALL, RN, :

South Dakota License No. R043149, :  
New Mexico License No. RN-88285, :

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

Licensee. :

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The South Dakota Board of Nursing (“Board”) noticed a contested case hearing in the above licensure proceedings, specifically for the Complaint and Notice of Hearing dated October 4, 2018, to be held at the on April 16, 2019, at 9:00 a.m.

The South Dakota Board of Nursing presided over the proceedings, along with Administrative Law Judge Catherine Williamson, Office of Hearing Examiners. Licensee Shelly Redder, f/k/a Shelly Hall, RN, appeared personally at the hearing, along with her attorney of record, Shane Eden. Michele Munson, the attorney prosecuting the licensing matter, presented evidence on behalf of the Board of Nursing. The proceeding was transcribed by a court reporter.

At the conclusion of the hearing, the Board considered the testimony from witnesses, exhibits offered during the hearing, argument of counsel, as well as the entire record before the Board. After deliberations, the Board entered a verbal order that a letter of reprimand be issued.

Pursuant to SDCL 1-26-25, the Board issues its final decision in writing through these written Findings of Fact and Conclusions of Law as well as a separate written Order issued pursuant to these Findings of Fact and Conclusions of Law.

Being charged with the statutory obligation to protect the public health, safety and welfare set forth in ARSD 20:48:04:01, *et al.*, including the protection of the public from unsafe nursing practices and practitioners, the Board hereby makes the following:

### **FINDINGS OF FACT**

1. Shelly Redder, f/k/a Shelly Hall (Licensee) is licensed to practice as a registered nurse in the State of South Dakota and holds license number R043149.
2. On November 20, 2015, Licensee entered into a deferred prosecution agreement with the South Dakota Attorney General that required Licensee to enroll and cooperate with the South Dakota Health Professionals Assistance Program (HPAP) throughout the pendency of her deferred prosecution agreement.
3. Licensee's deferred prosecution agreement included a "three-year deferred prosecution period," between November 20, 2015 and November 20, 2018.
4. Licensee entered into the deferred prosecution agreement with the South Dakota Attorney General to avoid criminal charges for her act of diverting prescription drugs from her employer, the Rapid City Regional Hospital, between February 1, 2015 and November 20, 2015.
5. Licensee admits that she diverted prescription drugs from her employer, the Rapid City Regional Hospital, between February 1, 2015 and November 20, 2015, with the intent to personally consume the prescription drugs and end her life.
6. Licensee enrolled with HPAP through a Participation Agreement between Licensee and HPAP signed on December 16, 2015. The original duration of the HPAP Participation Agreement was a two year period.

7. Licensee also signed an agreement with HPAP on November 24, 2015, to voluntarily refrain from the practice of nursing

8. On February 26, 2016, the Board of Nursing first mandated Licensee to participate in HPAP due to a complaint the Board received from Licensee's employer, Rapid City Regional Hospital, alleging Licensee, while employed as a registered nurse, diverted prescription medications, including Fentanyl, from her employer.

9. Licensee avoided disciplinary action by the Board in February 2016 by her agreement to voluntarily participate in HPAP. Licensee agreed to enroll and cooperate with HPAP to avoid disciplinary action against her nursing license.

10. Licensee violated the terms of her HPAP Participation Agreement throughout the pendency of her deferred prosecution agreement, as well as the original Participation Agreement with HPAP, particularly by consuming alcohol in violation of the Participation Agreement, failing to report to HPAP, failing to provide HPAP adequate notice of job changes, and failing to comply with counseling requirements.

11. On December 27, 2017, HPAP first contacted the Board of Nursing to report Licensee's non-compliance with her HPAP participation agreement.

12. On February 15, 2018, the Board of Nursing issued a Letter of Concern to Licensee regarding her non-compliance with her HPAP participation agreement.

13. On May 14, 2018, HPAP notified the Board of Nursing a second time regarding Licensee's non-compliance with her HPAP participation agreement.

14. On July 9, 2018, the Board of Nursing issued a letter to Licensee mandating that Licensee comply with HPAP.

15. On August 21, 2018, HPAP discharged Licensee from HPAP due to an August 13, 2018 test that resulted positive for Etg/Ets, which was collected on July 30, 2018, as well as a history of non-compliance with reporting, notice, testing, and counseling requirements.

16. On August 21, 2018, HPAP advised the Board of Nursing that Licensee had been unsuccessfully discharged from HPAP.

From the foregoing findings of fact, the Board draws the following:

### **CONCLUSIONS OF LAW**

1. That the Board has jurisdiction and authority over this matter pursuant to ARSD 20:48:04:01.
2. Under SDCL 36-9-49(10), the Board of Nursing may take disciplinary or corrective action if Licensee is guilty of unprofessional or dishonorable conduct.
3. The Board has a statutory obligation to protect the public health, safety and welfare set forth in SDCL § 36-9-1.1, including the protection of the public from unsafe nursing practices and practitioners.
4. The Board concludes that, given the evidence presented and Licensee's own admissions at the hearing, Licensee previously diverted prescription medications from her employer, for which Licensee was never disciplined by the Board because she agreed to enroll and cooperate with HPAP, an alternative program to discipline for licensees suffering from mental health or addiction conditions.
5. The Board concludes that, given the evidence presented, Licensee did not fully cooperate with HPAP as previously ordered by the Board.

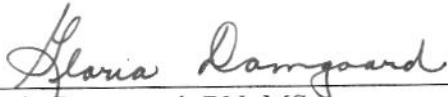
6. The Board concludes that Licensee's failure to cooperate and ultimate unsuccessful discharge from HPAP under SDCL 36-2A-11, as well as her conduct that initially led to her HPAP participation, amounts to unprofessional conduct under SDCL 36-9-49(10).

7. The Board concludes that disciplinary action, including specifically a Letter of Reprimand, is appropriate due to Licensee's unprofessional conduct under SDCL 36-9-49(10).

8. The South Dakota Board of Nursing, at the hearing on the 16th day of April, 2019, by a vote of 7-0, decided based on these Findings of Fact and Conclusions of Law to issue Licensee a Letter of Reprimand. Such Letter of Reprimand shall be separately entered.

Dated this 11<sup>th</sup> day of June, 2019.

SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, RN, MS  
Executive Director

