

**If you agree that the above-listed facts of the complaint are true and correct and you wish to resolve this matter without a hearing, the Board office proposes to resolve this matter with the following:**

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### **CONSENT AGREEMENT**

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Pursuant to South Dakota Codified Laws (SDCL) 36-1C-6 and 1-26-20, in consideration of the above-captioned matter, and as the full and final resolution of this matter, the undersigned parties do hereby consent and agree to the following:

1. The Board has jurisdiction over this matter pursuant to SDCL Chapter 36-20B.
2. ARSD 20:75:04:11 requires Board licensees to submit to verification of their CPE credits claimed during a reporting period, which includes cooperating with random audits.
3. ARSD 20:75:04:15 requires Board licensees to document their CPE credits.
4. SDCL 36-20B-27 requires a licensee to complete 120 hours of continuing education in each three-year renewal period.
5. SDCL 36-20B-40(3) authorizes the Board to impose discipline upon a licensee for "failure, on the part of a holder of a certificate, license, or permit holder to maintain compliance with the requirements for issuance or renewal of such certificate, license, permit, or registration or to report changes to the board".
6. SDCL 36-20B-40(6) authorizes the Board to impose discipline upon a licensee for a violation "of any provision of this chapter or rule, promulgated by the board pursuant to chapter 1-26, or violation of professional standards".
7. Licensee agrees that the facts stated in the preceding complaint are true and correct.
8. Licensee agrees that the conduct described in the complaint constitutes grounds for discipline pursuant to SDCL 36-20B-40(3) and (6).

9. Licensee is aware of and understands the nature of this matter. Licensee acknowledges that he has been informed of various rights he has in this matter. These rights include, but are not limited to, the right to:
- a. be represented by a lawyer in this matter;
  - b. receive notice of any hearing in this matter;
  - c. have a contested case hearing, as defined in SDCL 1-26-1(2). A contested case hearing includes the right of the licensee to be present at the hearing, be represented by legal counsel, introduce evidence, present testimony, call witnesses to testify, cross-examine all witnesses present, and submit argument on his or her own behalf; and
  - d. appeal any decision based on the contested case hearing to circuit court and the South Dakota Supreme Court, as provided by law.

Licensee agrees that, by signing this Consent Agreement, Licensee voluntarily **waives** all of these rights, procedures, and proceedings before the Board. Licensee further waives any other rights to which he may be entitled under state or federal law as applicable to this matter.

10. Licensee is not represented by an attorney in this matter and is representing himself in this matter.
11. Licensee understands that by entering into this Consent Agreement, the Board is making a finding that Licensee violated ARSD 20:75:04:11 and is subject to discipline pursuant to SDCL 36-20B-40(3) and (6). In addition, Licensee understands that by entering into this Agreement, the Board is taking formal disciplinary action against Licensee.
12. In return for Licensee's agreement to the provisions of this Consent Agreement, the Board agrees not to proceed to formal hearing in this matter and agrees that this Consent Agreement will constitute the final Board disposition of this matter.
13. Licensee agrees that this Consent Agreement shall serve as the final resolution of this matter, including any appeal. Licensee also agrees, in lieu

of further contesting this matter, that their license shall be **suspended** for a period of **90 days** from the effective date of this agreement which shall be held in **abeyance** pending compliance with the following requirements:

- a. Licensee shall have 6.5 CPE hours rolled back from period ending June 30, 2023, to period ending June 30, 2022, effective the date of this Consent Agreement. Licensee shall only receive credit for these hours toward the period ending June 30, 2022. This shall serve as an extension of the CPE period ending June 30, 2022.
  - b. Licensee shall complete and provide proof of completion to the Board office of **4.1 CPE Hours** within **90 days** of the effective date of this Consent Agreement. Licensee shall only receive credit for these hours toward the period ending June 30, 2023. This shall serve as an extension of the CPE period ending June 30, 2023.
  - c. Licensee shall pay a fine of **\$300** to the Board office within **30 days** of the effective date of this Consent Agreement.
  - d. Licensee shall submit proof of completion for all claimed CPE courses for each reporting year to the Board office by August 1<sup>st</sup> of each of the following years: 2024, 2025, and 2026.
  - e. Licensee shall comply with all provisions of SDCL Chapter 36-20B and ARSD Article 20:75.
14. Licensee shall be ineligible for any CPE extensions for the reporting periods ending in the years: 2024, 2025, and 2026. The Board office may deny any requests for extensions based solely on this Consent Agreement.
  15. If Licensee fails to comply with any of the terms of this Consent Agreement, Licensee agrees that any such violation would constitute new grounds for further discipline and/or imposition of the suspension held in abeyance.
  16. Licensee understands and agrees that the terms of this Consent Agreement and the preceding complaint shall be public. A summary of the contents of this Consent Agreement and the complaint may be published on the Board's website.

17. Licensee consents, agrees, and acknowledges that this Consent Agreement including the referenced complaint must be submitted to the Board at a public meeting for acceptance or rejection. If the Board rejects this Consent Agreement, Licensee waives any right to claim prejudice or to request recusal of any Board member by reason of any factual basis submitted to the Board in an effort to resolve this matter by Consent Agreement rather than by formal proceeding.
18. Licensee understands that nothing in this Consent Agreement will be deemed to restrict the Board from raising facts in reference to Licensee outside of those set forth in this Consent Agreement, if there are other material facts related to the matters under investigation that have not been set forth or disclosed herein.
19. Licensee understands that this Consent Agreement may be considered in any future licensing matters with the Board and for the purposes of determining the appropriate sanctions in any future actions by the Board for any violations of laws or regulations of the State of South Dakota or for failing to abide by any order or decision of the Board.
20. Licensee has read, understands, and agrees to this Consent Agreement and is freely and voluntarily signing it. This Consent Agreement contains the entire agreement between the parties relating to the matters referenced in the Consent Agreement. Licensee is not relying on any other representations of any kind, verbal or otherwise.
21. Licensee agrees to waive any rights and procedures afforded him under SDCL Chapters 1-26, 36-20B, 36-1C, and ARSD Article 20:75.
22. If this Consent Agreement is approved by the Board, Licensee agrees that service of copy of the executed Consent Agreement shall be complete upon the Board sending a copy to Licensee's email address on file with the Board.
23. This Consent Agreement shall be effective on the date it is signed by the Board Chair.

Dated this 21 day of March 2024.  
(month and year)

Deidre N Budahl  
Deidre Budahl  
Board Chair

### CONSENT AND ACKNOWLEDGMENT

By signing below, I accept and agree to the terms of this Consent Agreement. I agree that I have read and understand the terms of this Consent Agreement and I understand that I am waiving my due process rights and my right to a hearing. I am freely and voluntarily entering into this agreement.

Dated this 29 day of January, 2024.  
(month and year)

F. Peter Bergman  
F. Peter Bergman  
Licensee