

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 105572  
ISSUED TO  
SUSAN MARIE ESSARY

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BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF THE TEXAS  
BOARD OF NURSING



I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.  
*Patricia A. Roman*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Susan Marie Essary  
4924 Turkey Ranch Road  
Wichita Falls, Texas 76310

During open meeting held in Austin, Texas, on December 8, 2009, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing (22 TEX. ADMIN.CODE § 213.2(j)). All parties have a right to judicial review of this Order.

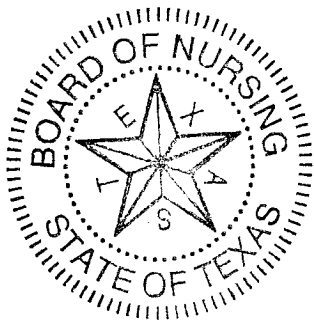
All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 105572, previously issued to SUSAN MARIE ESSARY, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice vocational nursing in the State of Texas.

Entered this 8th day of December, 2009.

TEXAS BOARD OF NURSING



BY:

*Katherine A. Thomas*

KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

Re: Permanent Certificate Number 105572  
Issued to Susan Marie Essary  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 9<sup>th</sup> day of December, 2009, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

Susan Marie Essary  
4924 Turkey Ranch Road  
Wichita Falls, Texas 76310

BY:

*Katherine A. Thomas*

\_\_\_\_\_  
KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

<b>In the Matter of Permanent License          Number 105572, Issued to          SUSAN MARIE ESSARY, Respondent</b>	§ § §	<b>BEFORE THE TEXAS          BOARD OF NURSING</b>
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**FORMAL CHARGES**

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, SUSAN MARIE ESSARY, is a Vocational Nurse holding license number 105572, which is in current status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

**CHARGE I.**

On or about July 11, 2008, while utilizing Respondent's multistate licensure compact privilege associated with her license to practice vocational nursing in the State of Texas, and employed with Villa Maria Care Center, LLC, Tucson, Arizona, Respondent admitted she engaged in the intemperate use of Marijuana, in that when asked to submit to the screen, Respondent declined and stated that the screen would indicate a positive result for "pot". Possession of *Marijuana* is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of *Marijuana* by a Vocational Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(10)(A)&(11)(B).

**CHARGE II.**

On or about January 28, 2009, the Respondent was issued an Order To Revoke Multistate Licensure Privilege in Arizona And Cease And Desist Order NO. 0807022 by the Arizona State Board Of Nursing. The Findings of Fact indicate that Respondent, while employed with Villa Maria Care Center, Tucson, Arizona, Respondent admitted that she had engaged in the intemperate use of Marijuana. A copy of the January 28, 2009, Order to Revoke, Findings of Fact and Conclusions of Law is attached, and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(8), Texas Occupations Code.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Board's rules, 22 TEX. ADMIN. CODE §§ 213.27 - 213.33. Additionally, staff will seek to impose on

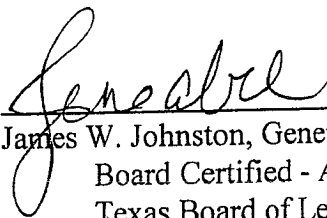
Respondent the administrative costs of the proceeding pursuant to § 301.461, TEX. OCC. CODE ANN. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

Filed this 21<sup>st</sup> day of August, 2009.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Renee Koslan Abel, Assistant General Counsel  
State Bar No. 24036103

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

TEXAS BOARD OF NURSING  
333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701  
P: (512) 305-6824  
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**BEFORE THE ARIZONA STATE BOARD OF NURSING**

IN THE MATTER OF THE PRIVILEGE TO )  
PRACTICE NURSING UNDER THE NURSE )  
LICENSURE COMPACT IN THE STATE OF )  
ARIZONA )  
ISSUED TO: )  
SUSAN MARIE ESSARY; AKA SUSAN )  
MARIE DAVENPORT; SUSAN MARIE )  
RHONE )  
RESPONDENT )  
NURSE LICENSE NO.: 105572 )  
STATE OF: TEXAS )

**ORDER TO REVOKE**

**MULTISTATE LICENSURE  
PRIVILEGE IN ARIZONA  
AND**

**CEASE AND DESIST ORDER  
NO. 0807022**

On January 28, 2009, the Arizona State Board of Nursing (“Board”) and (“Remote State”) considered the multistate licensure privilege of SUSAN MARIE ESSARY; AKA SUSAN MARIE DAVENPORT; SUSAN MARIE RHONE, (“Privilege Holder”) and (“Respondent”).

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Respondent holds practical nurse licensure, with multi-state licensure privileges (“Privilege”) under the Nurse Licensure Compact (“Compact”), issued by the State of Texas, a Compact State.
2. From on or about 2007, to on or about July 11, 2008, Respondent was employed as a licensed practical nurse at Villa Maria Care Center (VMCC), LLC, in Tucson, Arizona.
3. On or about July 5, 2008, to July 6, 2008 and from on or about July 6, 2008 to July 7, 2008, Respondent was assigned to work on MVCC’S Medicare Unit from 2 p.m. to 6 a.m.

4. On or about July 7, 2008, during the morning narcotic count between Respondent and day shift staff Sharon Whistle-Walton, LPN and Evelyn Bodnariuk, LPN, it was discovered by Nurse Bodnariuk that a 30-tablet Vicodin card and the narcotic medication sheet for patient J.V. was missing. Nurse Bodnariuk immediately reported the narcotic discrepancy to MVCC's hospital administrator and her nursing supervisor, MaryLee Kimball, RN, Director of Nursing.

5. During Nurse Kimball's internal investigation, she learned from Nurse Bodnariuk, that on or about July 4, 2007, she received a 30-tablet Vicodin card for patient J.V. and signed in the medication along with a narcotic medication sheet for patient J.V. and locked the narcotics in the secured narcotic box on the Medicare's unit medication cart.

6. On or about July 7, 2008, Nurse Kimball directed all licensed staff that were assigned to MVCC's unit to submit to a for-cause urine drug screen (UDS). All licensed personnel complied except for Respondent. Respondent told Nurse Kimball that she refused to submit to the for-cause UDS because her urine would "...test positive for pot (marijuana)..." an illegal substance. Respondent's employment was subsequently terminated for her refusal to submit to the UDS, because the facility could not rule out further drug usage by Respondent.

7. On or about July 17, 2008, the Board received a complaint from Nurse Kimball, RN, at VMCC.

8. On or about July 21, 2008, a letter from the Board's Chemically Addicted Nurse's Option (CANDO) was sent to Respondent's Texas address of record. Respondent failed to contact the Board's CANDO consultant. On or about August 5, 2008, VMCC's complaint was forwarded to the Board's investigative division.

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9. On or about August 25, 2008, a letter and a Board's Investigative Court/Conviction questionnaire were mailed to Respondent's Arizona and Texas addresses of record. Respondent failed to respond.

10. On or about October 15, 2008, a second letter and a Board Investigative Court/Conviction questionnaire was sent via certified mail, number 7006 3450 0000 3980 8665, to Respondent's Texas address of record. The certified mail document was returned to the Board as "undeliverable."

11. On or about November 17, 2008, Board staff sent a third letter and a Board Investigative Court/Conviction questionnaire to Respondent's email address of record, the email was returned to Board staff as "undeliverable."

12. On January 28, 2009, the Board voted and ordered Respondent's privilege to practice nursing in Arizona under the Compact rules and statutes **revoked**. The Board further ordered Respondent to cease and desist the practice of nursing in Arizona.

### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board has cause to revoke Respondent's privilege under the Nurse Licensure Compact to practice nursing in the State of Arizona, under A.R.S. § 32-1663 (E); A.R.S. §32-1668 Article (II) (H), Article (III)(B), and Article (V)(C) of the Compact as set forth for unprofessional conduct as defined in A.R.S. § 32-1601(16)(d), (g), and (j), and A.A.C. R4-19-403(B), (9), (18), (25)(a), and (31). (Adopted and effective November 13, 2005).

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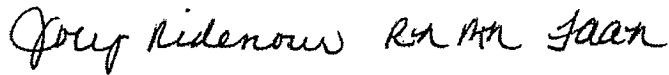
**ORDER**

IT IS ORDERED that Respondent's privilege to practice nursing in the State of Arizona is hereby REVOKED.

IT IS FURTHER ORDERED that Respondent shall immediately cease and desist the practice of nursing in the State of Arizona and is not eligible to practice nursing in Arizona under the privilege of any Compact state without prior approval from the Arizona Board of Nursing.

PURSUANT TO A.R.S. §41-1092.03, any person aggrieved by this Order may apply to the Board, in writing, within thirty (30) days of receipt of this Order and request a public hearing with respect to this Order. If you request a public hearing with respect to this Order, you also have the right to request an informal settlement conference by filing a written request with the Board, pursuant to A.R.S. § 41-1092.06, no later than twenty (20) days before the scheduled hearing. The conference will be held within fifteen (15) days after the receipt of your request. Please note that you waive any right to object to the participation of the Board's representative in the final administrative decision of the matter if it is not settled at the conference. For answers to questions regarding the appeals process, contact Susan Barber at (602) 889-5161.

ARIZONA STATE BOARD OF NURSING



Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

Dated: January 28, 2009

SEAL

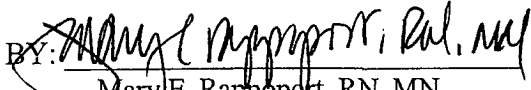
JR/mer

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COPY mailed this 12<sup>th</sup> day of February, 2009, by First Class Mail and by Certified Mail Receipt  
No. 7006 3450 0000 4916 3792, to:

SUSAN MARIE ESSARY  
1817 MCGREGOR AVENUE  
WICHITA FALLS, TX 76301

BY:   
Mary E. Rappoport, RN, MN  
Nurse Practice Consultant