

**STATE OF VERMONT
BOARD OF NURSING**

In re: James Lacey, III
License No. 026-23900

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Docket No. NU81-0308

Appearances:

Petitioner, State of Vermont: Betsy Ann Wrask
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on April 29, 2009 at the National Life Building in Montpelier, Vermont. Mr. Lacey did not attend and was not represented by counsel.

Findings of Fact

1. Mr. Lacey is licensed by and subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. §§ 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. On January 16, 2009 Mr. Lacey was sent notice of Charges in this matter by certified mail to his last known address. A copy of the Specification of Charges is attached to this Default Order.
3. OPR Rule 3.3 requires that an Answer be filed within 20 days of the date on which the notice of charges was mailed by the Director.
4. Licensees are required to notify the Board of any change of address within 30 days. 3 V.S.A. § 129a(a)(14).
5. Mr. Lacey received the notice and on January 30 wrote to OPR saying he had "absolutely no plan or desire to even respond to any of these charges." A telephone conference on March 24, 2009 confirmed Mr. Lacey's position. At that time Mr. Lacey was verbally advised that this matter would be set before the Board on April 13, 2009 for a Default hearing. On March 27, 2009 Mr. Lacey was sent written notice of this Default hearing.
6. Mr. Lacey has not filed an answer to the charges.
7. Upon hearing the State's presentation and taking notice of its own file, the Board finds Mr. Lacey to be in Default. The allegations contained in the State's Specification of Charges are therefore treated as the facts on which the Board's Order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

Mr. Lacey has received adequate or constructive notice of the charges in this matter as

indicated by the Board's file and the State's presentation. Because Mr. Lacey has failed to answer the charges, the State's factual allegations are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board finds, in this Default Hearing held pursuant to 3 V.S.A. §809(d), that Mr. Lacey has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Mr. Lacey's license is hereby **Revoked** effective as of the date of the hearing.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, National Life Bldg., North, FL2, Montpelier, VT 05620-3402 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By:

Ellen Leff
Ellen Leff, R.N., Chair

Date: April 29, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/1/09

STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:

JAMES J. LACEY, III
License No. 026-0023900

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Docket No. NU81-0308

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, James J. Lacey, III, RN:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. § 129(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. James J. Lacey, III (the "Respondent") of Phoenix, Arizona is licensed by the State of Vermont as a Registered Nurse under license number 026-0023900. This license was originally issued on or about April 14, 1998 and lapsed on or about March 31, 1999.
3. Respondent was also licensed by the State of Arizona as a Registered Nurse under license number RN104464 (the "Arizona license"). Respondent's Arizona license was originally issued on or about October 15, 1998 and was revoked on or about January 23, 2008.
4. Respondent's Arizona license was revoked by the Arizona State Board of Nursing (the "Arizona Board") in Findings of Fact, Conclusions of Law and Order No. 0707019. Attachment A. The revocation was due in part to the following:
 - a. From on or about February 25, 2003 to on or about May 14, 2007, feedback to Health Temp in Mesa, Arizona – where Respondent had been employed – from approximately seven (7) facilities to which Respondent had been assigned indicated that Respondent's performance was unacceptable or needed improvement in multiple areas of his practice.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

- b. On or about December 20, 2003, Respondent signed an Arizona Board Decree of Censure Consent Agreement for testing positive for cannabinoids in a pre-employment drug screen on or about August 28, 2001.
 - c. On or about March 5, 2004 while Respondent was employed as a professional nurse at St. Luke's Medical Center in Phoenix, Arizona, Respondent's orientation period was extended after Respondent's performance was rated as "poor" in a performance review.
 - d. On or about May 24, 2004, Respondent's employment with St. Luke's Medical Center was terminated after Respondent's initial probation had been extended and he did not show sufficient improvement in areas, including his unprofessional conduct, poor patient care, and "practicing outside of RN guidelines."
 - e. On or about July 7, 2006, according to Arizona Department of Public Safety Report number DR2006-036478, an officer stopped Respondent for a traffic violation. Police found multiple plastic bags containing an aggregate amount of approximately 10.5 pounds of marijuana in the vehicle Respondent was driving. Police arrested Respondent for possession of marijuana, possession of marijuana for sale, transportation of marijuana for sale, and possession of drug paraphernalia.
 - f. On or about January 11, 2007, in case number CR20070047, an Indictment was filed charging Respondent with transportation of marijuana for sale, a Class 2 felony, and possession of drug paraphernalia, a Class 6 felony, in the Navajo County Superior Court in Navajo County, Arizona.
 - g. Respondent failed to report to the Arizona Board that he was charged with a felony within ten (10) days of being charged.
 - h. On or about May 10, 2007, in case number CR20070047, Respondent was convicted, pursuant to a guilty plea, of possession of drug paraphernalia, a Class 6 felony. The court placed Respondent on three years of probation.
 - i. Respondent failed to report to the Arizona Board that he was convicted of a felony within ten (10) days of being convicted.
5. To date, Respondent has not reported his felony conviction to the Office of Professional Regulation.

Charges

6. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

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Prosecuting Attorney
Office of
Professional Regulation
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Montpelier, VT
05609-1107

- a. 26 V.S.A. § 1582(a)(2) (Whether or not committed in this state, has been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing);
- b. 26 V.S.A. §1582(a)(3) (Is unable to practice nursing competently by reason of any cause);
- c. ARBN Chapter 4, Rule IV(II)(B)(2) ("Inability to practice nursing competently" includes failure to conform to the essential standards of acceptable and prevailing nursing practice);
- d. ARBN Chapter 4, Rule IV(II)(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
- e. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud or harm the public) which includes aiding, abetting, or assisting any person in any act in violation of this chapter or acts against the best interest of the public pursuant to ARBN Chapter 4, Rule IV(II)(D)(10);
- f. 3 V.S.A. § 129a(a)(10) (Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession);
- g. 3 V.S.A. § 129a(a)(11) (Failing to report to the office a conviction of any felony or any offense related to the practice of the profession in a Vermont district court, a Vermont superior court, a federal court, or a court outside Vermont within 30 days);
- h. 3 V.S.A. § 129a(b)(2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice); and
- i. 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of James J. Lacey, III should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 11th day of January, 2009.

STATE OF VERMONT

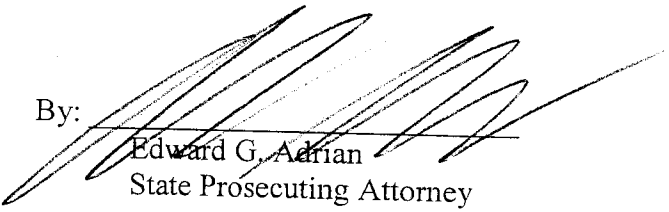
STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
Montpelier, VT
05609-1107

SECRETARY OF STATE

By:


Edward G. Adrian
State Prosecuting Attorney

nu.lacey.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
Montpelier, VT
05609-1107

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Ste 200
Phoenix, Arizona 85014
602-889-5150

IN THE MATTER OF PROFESSIONAL NURSE
LICENSE NO. RN104464
ISSUED TO:

JAMES J. LACEY,

Respondent.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER NO. 0707019

On January 23, 2008, the Arizona State Board of Nursing ("Board") considered the State's Motion to Deem Allegations Admitted and Recommended Discipline and James J. Lacey's ("Respondent") Response to the Motion, if any, at the Arizona Board of Nursing, 4747 North 7th Street, Suite 200, Phoenix Arizona 85014. Kim E. Zack, Assistant Attorney General, appeared on behalf of the State. Respondent was not present and was not represented by counsel.

On January 23, 2008, the Board granted the State's Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-1663(G) and Notice of Charges No. 0707019 filed in this matter, the Board adopts the following Findings of Fact, Conclusions of Law, and **REVOKES** Respondent's license.

FINDINGS OF FACT

1. Respondent holds Board issued professional nurse license no. RN104464.
2. The Board has authority pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664 to impose disciplinary sanctions against the holders of nursing licenses for violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -1667.
3. On or about December 20, 2003, Respondent signed Arizona State Board of Nursing Decree of Censure Consent Agreement and Order No. 0110034, attached hereto and incorporated herein by reference.

1 4. On or about July 7, 2006, according to Arizona Department of Public Safety Report
2 number DR2006-036478, an officer stopped Respondent for a traffic violation. Police found multiple
3 plastic bags containing an aggregate amount of approximately 10.5 pounds of marijuana in the
4 vehicle Respondent was driving. Police arrested Respondent for possession of marijuana, possession
5 of marijuana for sale, transportation of marijuana for sale, and possession of drug paraphernalia.
6

7 5. On or about January 11, 2007, in case number CR20070047, an Indictment was filed
8 charging Respondent with transportation of marijuana for sale, a class 2 felony, and possession of
9 drug paraphernalia, a class 6 felony, in the Navajo County Superior Court in Navajo County, Arizona.
10

11 6. Respondent failed to report to the Board that he was charged with a felony within ten
12 days of being charged.
13

14 7. On or about May 10, 2007, in case number CR20070047, Respondent was convicted,
15 pursuant to a guilty plea, of possession of drug paraphernalia, a class six felony. The Court placed
16 Respondent on three years of probation.

17 8. Respondent failed to report to the Board that he was convicted of a felony within ten
18 days of being convicted.
19

20 9. On or about July 19, 2007, Board Staff mailed Respondent an Investigative
21 Questionnaire regarding his drug-related charges in Navajo County, Arizona in May, 2007, and a
22 Court and Conviction Questionnaire with a request to provide a written explanation and relevant
23 court and police documents regarding each of his arrests, citations or charges, by August 2, 2007.
24 Respondent failed to respond by the due date.
25

26 10. From on or about November 23, 2003 to May 25, 2004, Respondent was employed as a
27 professional nurse at St. Luke's Medical Center in Phoenix, Arizona. On or about March 5, 2004,
28 Respondent's Interim Month Performance Review resulted in an overall rating of Respondent's
29

1 performance as "Poor." Respondent's orientation period was extended.

2 11. On or about May 24, 2004, Respondent's employment with St. Luke's Medical Center
3 was terminated after Respondent's initial probation had been extended, and he did not show sufficient
4 improvement in areas, including his unprofessional conduct, poor patient care, and "practicing
5 outside of RN guidelines."
6

7 12. On or about October 10, 2000, Respondent was employed by Health Temp in Mesa,
8 Arizona. From on or about February 25, 2003 to May 14, 2007, feedback to Health Temp from
9 approximately seven facilities to which Respondent had been assigned indicated that Respondent's
10 performance was unacceptable or needed improvement in multiple areas of his practice.
11

12 CONCLUSIONS OF LAW

13 1. Pursuant to A.R.S. § 32-1606(B), the Board shall revoke the license of a person or not
14 issue a license to an applicant who has one or more felony convictions, and who has not received an
15 absolute discharge for the sentence(s) for all felony convictions five or more years prior to the date of
16 filing an application pursuant to this chapter.
17

18 2. The conduct and circumstances alleged in the Factual Allegations constitute violations
19 of A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(b), (d), (g), (h), (j) and (l); A.R.S. § 32-
20 3208(A) and (D); and A.A.C. R4-19-403(B)(17), (25)(a), (28)(a), (28)(b), (28)(c), (29)(a), (29)(b),
21 and (29)(c) (adopted effective November 13, 2005).
22

23 3. The conduct and circumstances described in the Findings of Fact constitute sufficient
24 cause pursuant to A.R.S. § 32-1664 (N) to suspend or revoke the license of James J. Lacey to practice
25 as a professional nurse in the State of Arizona.
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ORDER

In view of the above Findings of Fact and Conclusions of Law, the Board issues the following Order:

Pursuant to A.R.S. § 32-1664(N), the Board hereby **REVOKES** professional nurse license no. RN104464 issued to James J. Lacey.

Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing or review within 30 days after service of this decision with the Arizona State Board of Nursing. The motion for rehearing or review shall be made to the attention of Susan Barber, R.N., M.S.N., Arizona State Board of Nursing, 4747 North 7th Street, Suite 200, Phoenix AZ 85014. For answers to questions regarding a rehearing, contact Susan Barber at (602) 889-5161. Pursuant to A.R.S. § 41-1092.09(B), if Respondent fails to file a motion for rehearing or review within 30 days after service of this decision, Respondent shall be prohibited from seeking judicial review of this decision.

This decision is effective upon expiration of the time for filing a request for rehearing or review, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.

Respondent may apply for reinstatement of said license pursuant to A.A.C. R4-19-404 after a period of five years.

DATED this 23rd day of January, 2008

SEAL

ARIZONA STATE BOARD OF NURSING

Joey Ridenour R.N. M.N. F.A.A.N.

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

1 COPIES mailed this 1st day of February, 2008, by Certified Mail No. 7001 1940 0003 4512 7046 and
2 First Class Mail to:

3 James J. Lacey
4 4240 N 4th Ave
5 Phoenix AZ 85013

6 COPIES mailed this 1st day of February, 2008, by First Class Mail to:

7 Kim E. Zack
8 Assistant Attorney General
9 1275 W Washington
10 Phoenix AZ 85007

11 By: Vicky Driver
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BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF PROFESSIONAL
NURSE LICENSE NO. RN104464
ISSUED TO:

JAMES J. LACEY
RESPONDENT

DECREE OF CENSURE
CONSENT AGREEMENT
AND ORDER NO: 0110034

RECEIVED A.S.B.N.
JAN 10
2004 JAN -8 PM 2:10

A complaint charging JAMES J. LACEY ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07 (F) (5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter:

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

FINDINGS OF FACT

1. Respondent holds Board issued professional nurse license no. RN104464.
2. On or about August 28, 2001, in a pre-employment urine drug screen for Maricopa Integrated Health System in Phoenix, Arizona, Respondent tested positive for cannabinoids. Respondent denied using marijuana, and could offer no explanation for the results. Respondent's urine drug screens after this time were negative.

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CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663(D); A.R.S. § 32-1601(14) (d) and (j), currently cited as A.R.S. § 32-1601(16) (d) and (j), and A.A.C. R4-19-403 (13).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke, suspend or take other disciplinary action against the license of Respondent to practice as a professional nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

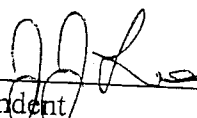
In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to this Consent Agreement and Order.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that those admissions are conclusive evidence of a prior violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has been either obtained or is waived.

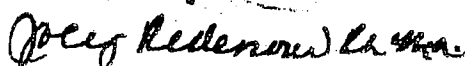
Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and the Respondent.


Respondent

Dated: 12/20/03

SEAL

ARIZONA STATE BOARD OF NURSING



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

Dated: November 6, 2003

MUNGER/RN104464

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to the provision and penalties imposed as follows:

1. Respondent's consent to the terms and conditions of this Order and waiver of public hearing are accepted.
2. It is ordered that a DECREE OF CENSURE be entered against license no.

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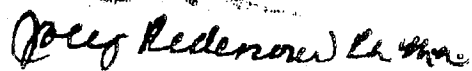
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RN104464, held by Respondent.

ARIZONA STATE BOARD OF NURSING



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

JR/SMM:mmm

COPY mailed this 21th. day of November, 2003, by First Class Mail to:

Teressa M. Sanzio, RN MPA, JD
Attorney at Law
428 E. Thunderbird Road, #238
Phoenix, Arizona 85022

cc: James J. Lacey
4240 N 4th. Avenue
Phoenix, Arizona 85013

By:



Legal Secretary