



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.
Katherine A. Thomas
Executive Director of the Board

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse § AGREED
License Number 591258 §
issued to VANESSA K. SANDS § ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of VANESSA K. SANDS, Registered Nurse License Number 591258 hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(8)&(10), Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 30, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received an Associates Degree in Nursing from Hale Nani Nursing Center, Honalulu, Hawaii on December 1, 1992. Respondent was licensed to practice professional nursing in the State of Texas on May 17, 1993.
5. Respondent's professional nursing employment history is unknown.

6. On or about December 28, 2004, Respondent's license to practice professional nursing in the State of Arizona was issued a Consent for entry of Voluntary Surrender Order by the Arizona State Board of Nursing, Phoenix, Arizona. A copy of the Findings of Fact, Conclusions of Law, Order is attached and incorporated by reference as part of this Order.
 - A. On or about September 9, 2004, the Board received a complaint from Ruth Stiehl, Vice President, Nursing Operations for Professional Placement Resources (PPR) in Jacksonville, Florida, that stated that Respondent was employed by PPR Travel and assigned to St. Joseph's Hospital in Tucson, Arizona. Stiehl wrote that PPR received a call reporting that a nurse working with Respondent had smelled alcohol on Respondent's breath and that Respondent was acting "scattered." Respondent agreed to take a Breathalyzer test and drug test. Although the Breathalyzer was negative the drug screen was positive for alcohol and marijuana.
 - B. On or about September 27, 2004, Board staff spoke to Respondent about the complaint. Respondent admitted to drinking five beers on September 2, 2004 with another travel nurse and her boyfriend. Respondent denied drinking before her shift on September 3, 2004. Respondent stated other travel nurse's boyfriend was smoking marijuana while she was present in the room. On or about September 28, 2004, Respondent requested to voluntarily surrender her license.

7. On or about October 16, 2008, Respondent's license to practice professional nursing in the Commonwealth of Massachusetts was Revoked by the Commonwealth of Massachusetts Board of Registration in Nursing, Boston, Massachusetts. A copy of the Findings of Fact, Conclusions of Law, and Order, is attached and incorporated by reference as part of this Order.
 - A. On or about December 28, 2004, Respondent and the Arizona State Board of Nursing entered into a Consent for Entry of Voluntary surrender by which Respondent voluntarily Surrendered her license to practice as a registered nurse in the State of Arizona for a minimum of five years. Respondent admitted that she had tested positive for alcohol and marijuana while on duty as a nurse at St Joseph's Hospital, in Tucson, AZ.
 - B. On or about July 1, 2005, Respondent's license to practice as a registered nurse in the State of Nevada was revoked by the Nevada State Board of Nursing as a result of the discipline impose by the Arizona board.
 - C. In and around July 10, 1999, Respondent submitted to the Board an application for licensure in which she stated that she had never been convicted of a felony or misdemeanor. In fact, on or about March 4, 1982, She was found guilty of a misdemeanor, Operating Under the Influence (liquor), in Barnstable District Court, Hyannis, Massachusetts Docket No. 05398.

8. On or about June 13, 1980, Respondent was arrested by the Barnstable Police Department, Hyannis, Massachusetts, and subsequently charged under Case Number 40439, 40440, 40441, 40442 with 3 COUNTS OF DISTRIBUTE CONTROLLED SUBSTANCE, POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO DISTRIBUTE, CONSPIRACY TO DISTRIBUTE A CONTROLLED SUBSTANCE (a Class B Misdemeanor offense), AND POSSESSION OF CONTROLLED SUBSTANCE INTENT TO DISTRIBUTE (a Class D Misdemeanor offense) The court disposition for this matter is currently pending to this office. Warrant was re-issued to Respondent on or about April 27, 2004. As of July 24, 2009, Criminal Docket reflects all 4 counts still pending and an active warrant exists for Respondents arrest.
9. In response to Finding of Fact Number Seven (7), Respondent states: "This was 31 years ago. I was living back there with my sister in 2005. I talked with my lawyer I had in 1980. He couldn't find the paperwork and he had thought the case was closed. Later, he contacted me and said it wasn't officially closed, but the evidence was no longer around. (Which wasn't mine, I was being used by a so-called boyfriend and it was in my mom's house.) My lawyer also said that the people and the snitch involved in the case were no longer around. My lawyer told me when he gets everything together -paperwork found and people he will contact me. So far as of this date he hasn't. I have been in touch with his office."
10. On or about November 5, 2007, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on June 19, 2007), in the County Criminal Court at Law No. 4 of Harris County, Texas, under Cause Number 1461727. As a result of the conviction, Respondent was sentenced to confinement in the Harris County Jail for a period of ten (10) days, with four (4) days credit given. Additionally, Respondent was ordered to pay court costs.
11. In response to Finding of Fact Number Nine (9), Respondent states: "the DUI was a mistake and a disaster. My brakes were bad. I hit someone in the back while driving (No Damage, I couldn't stop) the driver called the police. They came, did a field sobriety. I passed (I had NO alcohol at all), they asked could they search my car, I said yes. They found one Xanax pill in the backseat floor. That was controlled substance, which I had a prescription so it was dismissed. I had the prescription for Xanax because I had 3 deaths every month for 3 months all family members. Two died in an car accident (brother and niece). I was very distraught couldn't sleep, always crying so the Doctor gave me some Xanax to come. I kept pleading "Not guilty", they kept continuing the case due to the other driver never showing up in court. I had to leave Texas to live with my sister in MA, because of all the distress of my brothers death. They continued the case again, because the driver again didn't showed up. the last time I took the Greyhound bus from MA to Houston to resolve the case, my lawyer said it would probably take a couple of weeks from a jury and I would have to stay around in Texas. I couldn't, I was living back with my sister in MA, dealing with my families deaths, so I said ok I'll plead Guilty just to get it over with."

12. On or about December 18, 2008, Respondent submitted a License Renewal Form Registered Nurse to the Texas Board of Nursing in which she provided false, deceptive, and/or misleading information, in that she answered "No" to the question:

"Have you, within the past 24 months or since your last renewal, for any criminal offense, including those pending appeal:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgement/punishment/action?"

Respondent failed to disclose that on or about November 5, 2007, Respondent entered a plea of Guilty and was convicted of DRIVING WHILE INTOXICATED (a Class B Misdemeanor offense committed on June 19, 2007), in the County Criminal Court at Law No. 4 of Harris County, Texas, under Cause Number 1461727.

12. In response to Finding of Fact Number Eleven (11), Respondent states: "I am sorry for not disclosing everything but I think I did say about the DUI because the police found 1 pill of Xanax they charged me with DUI with Xanax. I had not taken those pills when driving because it puts me to sleep. Please forgive me for all that, I want to continue to be a good nurse. I'm sorry again for my failures and I am asking for mercy to keep my license."
13. On or about December 22, 2008, Respondent submitted a License Renewal Form Registered Nurse to the Texas Board of Nursing in which she answered "Yes" to the question:

"Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, place on probation, refused to renew a nursing license, certificate, or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded, or otherwise disciplined you?"

Respondent disclosed that she had Voluntarily surrendered her license in Arizona, and that Massachusetts revoked her license. Additionally Hawaii fined her.

14. In response to Finding of Fact Number Thirteen (13), Respondent states: "It was not right. I had to give all these copies to the Hawaii Board of nursing and my original state of license. I received a fine from Hawaii. Any active license I had at a the time they contacted. I

thought it was unfair. My first night (on orientation on a lock-down unit with guards at the door and patients handcuffed to their beds. I was nervous and scared, and this was a travel position in Tucson, AZ, which the travel company did not inform me of this situation. They told me it was a telemetry position. I probably was scattered then even said I was too nice to the prisoner/Patients for getting juice for them. Yes I had dinner and drinks with a travel nurse (On a Friday Night) after orientation all week at the hospital. Her boyfriend smoked a marijuana cigarette. I do not smoke period, cigarettes or marijuana. It was second had smoke. I agreed to all the test they asked for. The breathalyzer was 0.00 (negative). They did it twice with a lab person. The urine test was positive for alcohol, which that was illegal for alcohol in urine. It depends on the metabolism of your body. They did not do a Blood Alcohol. also it was a metabolite of marijuana which is a minute amount just like second had smoke. I was scared never had this happened to me before so I just voluntarily surrendered my license in Arizona not knowing the consequences."

15. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(8)&(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 591258, heretofore issued to VANESSA K. SANDS, including revocation of Respondent's license to practice professional nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL pay a monetary fine in the amount of two hundred fifty (\$250) dollars. RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order days. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course

Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address:*

<http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html>

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(3) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior

to accepting an offer of employment.

(4) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(5) RESPONDENT SHALL be supervised by a Registered Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(6) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) month period for one (1) year of employment as a nurse.

(7) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except

as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(8) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. For the first three (3) month period, random screens shall be performed at least once per week. For the next three (3) month period, random screens shall be performed at least twice per month. For the next six (6) month period, random screens shall be performed at least once per month. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the stipulation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random drug screening during the stipulation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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CONTINUED ON NEXT PAGE.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice professional nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 17th day of August, 2010.

Vanessa K. Sands
VANESSA K. SANDS, Respondent

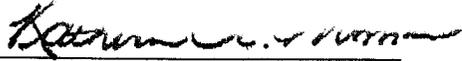
Sworn to and subscribed before me this 17th day of August, 2010.



Leticia Y. Chaires
Notary Public in and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 17th day of August, 2010, by VANESSA K. SANDS, Registered Nurse License Number 591258, and said Order is final.

Effective this 14th day of September, 2010.



Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board



Janice K. Brewer
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

4747 North 7th Street, Suite 200
Phoenix AZ 85014-3655
Phone (602) 889-5150 Fax (602) 889-5155
E-Mail: arizona@azbn.gov
Home Page: <http://www.azbn.gov>

AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **VANESSA KAYE SANDS**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85014-3655 on March 5, 2009.

SEAL

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

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

Arizona State Board of Nursing

Date Printed: 03/05/2009

By: ANNE PARLIN, STAFF

NAME VANESSA KAYE SANDS

GENDER: F **ETHNICITY:** White - Not of
Hispanic Origin

PLACE OF BIRTH CITY: UNKNOWN **STATE:** UNKNOWN

MAILING ADDRESS

P.O. BOX 132
BULLHEAD CITY AZ 86442
County: Maricopa
Country:

HOME PHONE: N/A **PAGER:** N/A **CELL PHONE:** N/A
BUSINESS PHONE: N/A **FAX:** N/A

E-MAIL:

OTHER NAMES

<u>NAMES USED</u>	<u>REASON</u>	<u>NAMES USED</u>	<u>REASON</u>
<NONE>			

AZ LICENSE/CERTIFICATION INFORMATION:

License/Certificate Number: RN084982 **License Type:** REGISTERED NURSE
Original Date: 02/17/1994
Expiration/Next Renewal Date: 12/28/2004
Last Issued Date: 07/17/2003

Original State of Licensure/Certification: HAWAII

AZ LICENSE STATUS HISTORY

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>	<u>LAST MODIFIED BY:</u>
Active: Good Standing	10/24/1996	01/01/2001	Convert
Lapsed/Expired	01/01/2001	07/11/2003	BRENT SUTTER
Active: Good Standing	07/11/2003	12/28/2004	ssmith
Valid in Arizona Only	07/17/2003	04/07/2004	BRENT SUTTER
Multi State Privileges	04/07/2004	12/29/2004	ssmith
Complaint/Self Report	09/14/2004	12/28/2004	ssmith
Voluntary Surrender	12/28/2004		ssmith

SCHOOL INFORMATION

<u>NAME</u>	<u>LOCATION</u>	<u>NCLEX CODE</u>	<u>DEGREE OBTAINED</u>	<u>GRADUATION DATE</u>
KAPIOLANI COMMUNITY COLLEGE	HONOLULU HI			12/01/1992

OTHER STATES OF LICENSURE/CERTIFICATION

<u>LIC/CERT NO</u>	<u>STATE</u>	<u>LIC/CERT TYPE</u>	<u>STATUS</u>	<u>LIC/CERT DATE</u>	<u>ORIG STATE</u>
	HI	REGISTERED NURSE			Y
	HI	REGISTERED NURSE	Active: Good Standing	02/04/1993	N

MOST RECENT APPLICATION INFORMATION

Year: 2003
Employment Status:
Type of Nursing Position:
Major Clinical or Teaching Area in Nursing:
Principle Field of Employment:

ARIZONA STATE BOARD OF NURSING
1651 East Morten Avenue, Suite 210
Phoenix, Arizona 85020-4613
602-889-5150

IN THE MATTER OF PROFESSIONAL
NURSE LICENSE NO. RN084982
ISSUED TO:

VANESSA KAYE SANDS
RESPONDENT

CONSENT FOR ENTRY OF
VOLUNTARY SURRENDER
ORDER NO. 0409012

A complaint charging Vanessa Kaye Sands ("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. §32-1663 (D)(5), Respondent voluntarily surrenders her license for a minimum of five years.

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

FINDINGS OF FACT

1. Respondent holds Board issued professional nurse license no. RN084982
2. On or about September 9, 2004, the Board received a complaint from Ruth Stiehl, Vice President, Nursing Operations for Professional Placement Resources (PPR) in Jacksonville, Florida, that stated that Respondent was employed by PPR Travel and was assigned to St. Joseph's Hospital in Tucson, Arizona. Stiehl wrote that PPR received a call reporting that a nurse working with Respondent had smelled alcohol on Respondent's breath and that Respondent was acting "scattered." Respondent agreed to take a breathalyzer test and drug test. Although the breathalyzer was negative, the drug screen was positive for alcohol and marijuana.

1 Respondent's license to practice as a professional nurse in the State of Arizona.

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

3 Respondent understands that she has an opportunity to request a hearing and declines to
4 do so. Respondent agrees to issuance of the attached Order and waives all rights to a hearing,
5 rehearing, appeal, or judicial review relating to this Order.
6

7 Respondent understands that all investigative materials prepared or received by the
8 Board concerning these violations and all notices and pleadings relating thereto may be retained in the
9 Board's file concerning this matter.
10

11 Respondent understands that the admissions in the Findings of Fact are conclusive
12 evidence of a violation of the Nurse Practice Act and may be used for purposes of determining
13 sanctions in any future disciplinary matter.
14

15 Respondent understands the right to consult legal counsel prior to entering into the
16 Consent Agreement and such consultation has either been obtained or is waived.
17

18 Respondent understands that this voluntary surrender is effective upon its acceptance by
19 the Executive Director or the Board and by Respondent as evidenced by the respective signatures
20 thereto. The effective date of this Order is the date the Voluntary Surrender is signed by the
21 Executive Director or the Board and by Respondent. If the Voluntary Surrender is signed on a
22 different date, the later date is the effective date.
23

24 Respondent understands that Voluntary Surrender constitutes disciplinary action.
25 Respondent also understands that she may not reapply for reinstatement during the period of
26 Voluntary Surrender.
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28 Respondent agrees that she may apply for reinstatement after the period of voluntary
29 surrender under the following conditions, and must comply with current law at the time of their

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application for reinstatement:

The application for reinstatement must be in writing and shall contain therein or have attached thereto substantial evidence that the basis for the voluntary surrender has been removed and that the reinstatement of the license does not constitute a threat to the public's health, safety and welfare. The Board may require physical, psychological, or psychiatric evaluations, reports and affidavits regarding the Respondent as it deems necessary. These conditions shall be met before the application for reinstatement is considered.

Vanessa Sands
Respondent

Date: 12/16/04

ARIZONA STATE BOARD OF NURSING

SEAL

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

Dated: 12/21/04

SSMITH/RN084982

ORDER

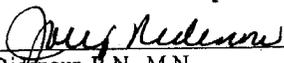
Pursuant to A.R.S. § 32-1663 (D)(5) the Board hereby accepts the Voluntary Surrender of professional nurse license number RN084982, issued to Vanessa Kaye Sands. This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be made public upon the effective date of this Consent Agreement. Respondent shall not practice in Arizona under the privilege of a multistate license.

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IT IS FURTHER ORDERED that Respondent may apply for reinstatement of said license after a period of five years.

ARIZONA STATE BOARD OF NURSING

SEAL



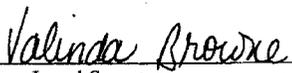
Joey Richardson, R.N., M.N.
Executive Director

Dated: 12/28/04

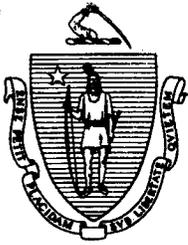
JR/SS:

COPY mailed this 7th day of October, 2004, by First Class Mail to:

Vanessa Kaye Sands
P.O. Box 132
Bullhead City, Arizona 86442

By: 

Legal Secretary



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, Suite 200, 2nd Floor, Boston, MA 02114
(617) 973-0800

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

JUDYANN BIGBY, MD
SECRETARY

JOHN AUERBACH
COMMISSIONER

Office of Public Protection
Phone: (617) 973-0865 Fax: (617) 973-0985

April 5, 2010

Mr. John De La Rosa
Texas Board of Nursing
333 Guadalupe Street, Suite 3-460
Austin, TX 78701

RE: Vanessa Sands, RN

Dear Mr. De La Rosa:

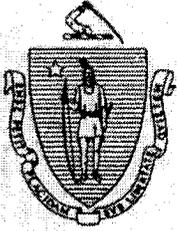
Enclosed please find certified copies of the information you have requested.

If you have any questions or concerns, please do not hesitate to contact me at 617-973-0874.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charlena Benjamin".

Charlena Benjamin
Administrative Assistant
Office of Public Protection
Department of Public Health



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure

DEVAL L. PATRICK
GOVERNOR
TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR
JUDYANN BIGBY, MD
SECRETARY
JOHN AUERBACH
COMMISSIONER
RULA HARB
EXECUTIVE DIRECTOR

Board of Registration in Nursing
239 Causeway Street, Suite 200, 2nd Floor,
Boston, MA 02114
617-973-0900

November 20, 2008

BY FIRST CLASS AND CERTIFIED MAIL RETURN
MAIL RETURN RECEIPT REQUESTED 7006 2760 0003 7733 7879

Vanessa Sands
145 Hudson Street
Northborough, MA 01532

RE: In the Matter of Vanessa Sands, RN License No. 238831
Board of Registration in Nursing Docket No. RN-05-210

Dear Ms. Sands:

Enclosed is the *Final Decision and Order* ("Final Decision") issued by the Board of Registration in Nursing ("Board") in connection with the above-referenced matter. The effective date of the Board's Order is ten (10) days from the date appearing on page 6 of the *Final Decision* ("Date Issued"). Your appeal rights are noted on page 6 of the *Final Decision*.

Sincerely,

Rula Harb, MSN, RN
Executive Director
Board of Registration in Nursing

Enc.

cc: Eugene Langer, Prosecuting Counsel

At me with Fed copy. U.S.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING

IN THE MATTER OF)
VANESSA SANDS)
RN LICENSE NO. 238831)
RN LICENSE EXP. DATE 12/17/06)
_____)

DOCKET NO. RN-05-210

FINAL DECISION AND ORDER

This matter came before the Board of Registration in Nursing ("Board") for determination of an appropriate sanction and issuance of a Final Decision and Order following the Board's October 16, 2008 ruling granting Prosecuting Counsel's Motion for Partial Summary Decision ("Ruling"). That Ruling, attached hereto and incorporated by reference herein, determined that the license of Vanessa Sands ("Respondent") to practice as a Registered Nurse in the Commonwealth of Massachusetts is subject to discipline based on the following: (1) having her license disciplined by the Arizona Board of Nursing in December 2004; (2) having her license disciplined by the Nevada Board of Nursing in July 2005 based on the Arizona discipline; and (3) falsely stating on her application submitted to this Board in 1999 that she had never been convicted of a misdemeanor or a felony, when in 1982 she had been found guilty of a misdemeanor, Operating Under the Influence (Liquor).

The Ruling, issued on October 16, 2008 and received by Respondent on October 18, 2008, also notified Respondent that she had seven (7) days to file a written request for a sanction hearing. It further notified her that failure to request a sanction hearing in a timely manner would constitute a waiver of her right to a hearing and result in the Board determining a sanction without her input, and that the Board would proceed to revoke, suspend, or take other disciplinary action against her license.¹ Respondent did not request a sanction hearing within the designated timeframe or any time thereafter.

The Board has broad discretion to determine the proper sanctions for misconduct..." *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 347-8 (1996); *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, 143 (1990). Where, as in this case, the Board's discipline is based on a nurse having

¹ On October 16, 2008, the Board mailed the Ruling to Respondent via first class and certified mail return receipt requested. The United States Postal Service returned the signed return receipt green card to the Board. That card indicated that Vanessa Sands signed for the mailing on October 18, 2008.

been disciplined in another state, the Board has the discretion to impose discipline different from that imposed by the other state.

Therefore, based on its Ruling, the seriousness of Respondent's misconduct and the Board's authority and statutory mandate to protect the public health, safety, and welfare and to maintain the public's confidence in the integrity of the nursing profession, the Board issues the following Order.

ORDER

Based on its Final Decision, the Board REVOKES Respondent's Right to Renew her Massachusetts LICENSE to practice as a REGISTERED NURSE, RN License No. 238831.

If Respondent renews her license to practice as a Registered Nurse in Massachusetts before the Effective Date of this Final Decision and Order by Default, the Board REVOKES said LICENSE, RN License No. 238831.

Respondent is hereby ordered to return any nursing license issued to her by the Board, whether current or expired, to the Board's office at 239 Causeway Street, Boston, Massachusetts 02114, by hand or by certified mail, within five (5) days of the Effective Date set forth below.

Respondent shall not practice as a Registered Nurse in Massachusetts on or after the Effective Date of this Order. "Practice as a Registered Nurse" includes, but is not limited to, seeking and accepting a paid or voluntary position as a Registered Nurse or in any way representing herself as a Registered Nurse in Massachusetts. The Board shall refer any evidence of unlicensed practice to appropriate law enforcement authorities for prosecution as provided by G.L. c. 112, §§ 65 and 80.

Respondent may petition the Board in writing for relicensure when she can provide documentation **satisfactory to the Board** demonstrating her ability to practice nursing in a safe and competent manner. Such documentation shall include evidence that Respondent has been in stable and sustained recovery from all substances of abuse for the three (3) years immediately preceding any petition for relicensure. Accordingly, Respondent shall with any petition for relicensure have submitted **directly to the Board**:

- 1) the results of random supervised urine tests for substances of abuse for Respondent, collected no less than twelve (12) times per year, according to the requirements outlined in Attachment A, during the two (2) years immediately preceding the petition for relicensure, all of which are required to be negative;

- 2) documentation that Respondent obtained a sponsor and regularly attended Alcoholics Anonymous (AA) and/or Narcotics Anonymous (NA) meetings at least three (3) times per week during the two (2) years immediately preceding any petition for license reinstatement, such documentation to include a letter of support from the Respondent's sponsor and weekly signatures verifying this required attendance;
- 3) documentation verifying that she has regularly attended group or individual counseling or therapy, or both, during the two (2) years immediately preceding any petition for relicensure;²
- 4) reports from Respondent's primary care provider and any specialist(s) whom Respondent may have consulted verifying that Respondent is medically able to resume the safe and competent practice of nursing, including a list of all prescribed medications and the clinical basis for such prescriptions, written within thirty (30) days preceding any petition for relicensure; and
- 5) if employed during the year immediately preceding Respondent's petition for relicensure, have each employer from said year submit on official letterhead an evaluation reviewing Respondent's attendance, general reliability, and overall job performance;³
- 6) A comprehensive mental health evaluation of the Respondent conducted by a licensed, board certified psychiatrist written on said provider's letterhead, sent directly to the Board by the provider and completed within thirty (30) days before submission of the petition for reinstatement. The evaluation shall verify that said provider has reviewed this Order and the specific conduct and documentation upon which it is based in conjunction with completing the evaluation. The evaluation shall be completed in accordance with all accepted standards for such an evaluation, and include a clinically based assessment of the Respondent that substantiates that the Respondent is able to practice nursing in a safe and competent manner, as well as all of the following:
 - a. A list of all of the Respondent's prescribed medications with the medical necessity for each prescription.

² Such documentation shall be completed by each licensed mental health professional seen by Respondent, and shall be written within thirty (30) days preceding any petition for relicensure. Further, such documentation shall include: a summary of Respondent's progress in therapy and her full, sustained recovery from substance abuse, dependence and addiction; a statement of the frequency and length of therapy; and specific treatment recommendations for Respondent's full, sustained recovery from substance abuse, dependence and addiction.

³ If Respondent wasn't employed at all during this period, submit an affidavit so attesting.

- b. A detailed statement of the Respondent's past mental health and medical histories including diagnoses, treatments and prognoses.
 - c. Detailed descriptions of each of the Respondent's existing mental health conditions, with the corresponding status, treatments and prognosis including, but not limited to, each condition, if any, which gave rise to the conduct acknowledged in this Agreement.
 - d. Assessments of the Respondent in each of the following areas:
 - i. Cognition status - orientation to time, place and person; ability to recognize and organize responsibilities accurately and to make accurate, appropriate decisions; critical thinking ability sufficient for appropriate clinical judgment; and ability to collect and analyze data to problem solve efficiently and accurately, and to identify cause and effect relationships accurately.
 - ii. Affective status- interpersonal skills sufficient to interact appropriately and honestly with individuals, families and groups; and ability to recognize and conform to lawful standards of social conduct.
 - iii. Ability to recognize the limits of professional boundaries and the risk that the Respondent will violate professional boundaries with patients.
 - iv. Ability to control her/his impulses; and the likelihood that she/he will repeat any of the conduct that gave rise to this Order.
 - e. Summary of the Respondent's progress in treatment and detailed descriptions of any corresponding existing or continuing limitations of any kind.
 - f. Recommendations for the Respondent's on-going treatment and specific treatment plan.
- 7) certified Court and/or Agency documentation that there are no pending actions or obligations, criminal or administrative, against the Respondent before any court or Administrative Agency including, but not limited to:
- a. Documentation that *at least one (1) year prior to any petition for reinstatement* the Respondent satisfactorily completed all court requirements (including probation) imposed on her/him in connection

with any criminal matter and a description of those completed requirements and/or the disposition of such matters;⁴ and

- b. Certified documentation from the Arizona and Nevada Boards of Nursing verifying that the Respondent successfully met all requirements imposed by the Arizona and Nevada Boards in connection with their discipline of her nursing licenses and that her Arizona and Nevada licenses are, or are eligible to be, reinstated in good standing and free of any restrictions or conditions.⁵
- 8) documentation satisfactory to the Board of her successful completion of all continuing education equivalent to the continuing education required by Board regulations for the two (2) license renewal cycles immediately preceding any petition for relicensure.

The Board's approval of Respondent's petition for relicensure shall be conditioned upon, and immediately followed by, probation of Respondent's nursing license for a period of two (2) years with continued random urine screens, as well as other restrictions and requirements that the Board may then determine are reasonably necessary in the best interests of the public health, safety, and welfare.

The Board may choose to relicense Respondent if the Board determines that relicensure is in the best interests of the public at large.

The Board voted to adopt the within Final Decision at its meeting held on November 12, 2008 by the following vote: In favor: D. Lampman, MSN, RN, M. Flynn, LPN, RN, S. Kelly, RN, NP, J. Killion, LPN, E. Richard Rothmund, P. Remijan, RN, NP, Mary Jean Roy, MS, M.Ed., RN, C. Simonian, RPh, C. Weekes-Cabey, RN Opposed: None Abstained: None Absent: J. Rico, RN, NP, P. Waithe, RN.

The Board voted to adopt the within Order at its meeting held on November 12, 2008, by the following vote: In favor: D. Lampman, MSN, RN, M. Flynn, LPN, RN, S. Kelly, RN, NP, J. Killion, LPN, E. Richard Rothmund, P. Remijan, RN, NP, Mary Jean Roy, MS, M.Ed., RN, C. Simonian, RPh, C.

⁴ The Respondent shall also provide, if requested, an authorization for the Board to obtain a Criminal Offender Record Information (CORI) Report of the Respondent conducted by the Massachusetts Criminal History Systems Board and a sworn written statement that there are no pending actions or obligations, criminal or administrative, against the Respondent before any court or administrative body in any other jurisdiction.

⁵ Respondent shall also submit certified documentation from the state board of nursing of each jurisdiction in which the Respondent has ever been licensed to practice as a nurse, other than Arizona and Nevada, sent directly to the Massachusetts Board, identifying her license status and discipline history, and verifying that her nursing license is, or is eligible to be, in good standing and free of any restrictions or conditions.

Weekes-Cabey, RN Opposed: None Abstained: None Absent: J. Rico, RN, NP,
P. Waithe, RN.

EFFECTIVE DATE OF ORDER

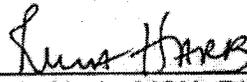
This Final Decision and Order becomes effective upon the tenth (10th) day
from the date it is issued (see "Date Issued" below).

RIGHT TO APPEAL

Respondent is hereby notified of the right to appeal this Final Decision and
Order to the Supreme Judicial Court within thirty (30) days of receipt of notice of
this Final Decision pursuant to M.G.L. c. 112, § 64.

Board of Registration in Nursing

Date Issued: November 20, 2008



Rula Harb, MSN, RN
Executive Director

Final Decision and Order to be mailed to:

VIA FIRST CLASS MAIL AND CERTIFIED
MAIL RETURN RECEIPT REQUESTED 7006 2760 0003 7733 7879

Vanessa Sands
145 Hudson Street
Northborough, MA 01532

VIA INTEROFFICE MAIL

Eugene Langner, Prosecuting Counsel
Office of Prosecutions
Division of Health Professions Licensure
Department of Public Health
239 Causeway Street
Boston, MA 02114

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING

IN THE MATTER OF)
VANESSA SANDS)
RN LICENSE NO. 238831)
RN LICENSE EXP. DATE 12/17/06)
_____)

DOCKET NO. RN-05-210

**BOARD RULING ON PROSECUTING COUNSEL'S
MOTION FOR PARTIAL SUMMARY DECISION**

I. Procedural Background

On May 16, 2006, the Board of Registration in Nursing (Board) commenced this disciplinary proceeding against the license of Vanessa Sands (Respondent) to practice as a Registered Nurse in the Commonwealth of Massachusetts (RN License No. 238831) by issuing and duly serving on her an Order to Show Cause (Show Cause Order) (the Show Cause Order is incorporated by reference in this ruling). The Show Cause Order makes five charges against Respondent's license for: (1) in or about March 2005, while employed as a nurse in Massachusetts, failing to adhere to accepted standards of nursing practice regarding asepsis, disease transmission, documentation and handling of controlled substances (Show Cause Order ¶ 2); (2) having her license disciplined by the Arizona Board of Nursing (Arizona Board) in December 2004 (Show Cause Order ¶ 3); (3) having her license disciplined by the Nevada Board of Nursing (Nevada Board) in July 2005 based on the Arizona discipline (Show Cause Order ¶ 4); (4) falsely stating on her application submitted to this Board in 1999 that she had never been convicted of a misdemeanor or a felony, when she had been found guilty of a misdemeanor, Operating Under the Influence (Liquor), in 1982 (Show Cause Order ¶ 5); and (5) on or about April 2005, in Barnstable District Court Docket No. BACR1980-40439, having a warrant issued for her arrest as a result of failing to appear in court in 1982 in connection with the following indictments issued against her in 1980: two charges of distributing or manufacturing a Class B controlled substance, one charge of distributing or manufacturing a Class D controlled substance and one charge of conspiring to violate the Massachusetts Controlled Substances Act (Show Cause Order ¶ 6).

On June 1, 2006, Respondent filed an answer, admitting certain allegations and denying others. On September 8, 2006, Prosecuting Counsel filed a Motion for Partial Summary Decision (Motion) as to Show Cause Order Paragraphs 3-6 only. He did not move for summary decision as to the charges

ATM CERTIFIED COPY - CH

raised in Show Cause Order Paragraphs 1 and 2.¹ On October 30, 2006, Respondent filed a letter in response. In her letter, she does not dispute facts material to the Motion, but requests that the Board place her license on inactive status and let it expire on the expiration date of December 17, 2006. For the reasons set forth below, the Board **GRANTS** the Motion as to Show Cause Order Paragraphs 3, 4, and 5, as described herein, denies the Motion as to Paragraph 6, dismisses without prejudice Show Cause Order Paragraphs 2 and 6,² and notifies Respondent of her right to request a hearing on disposition.³

II. Exhibits

The record on summary decision contains the following materials, in addition to pleadings and other documents filed with the Administrative Hearings Counsel (AHC) by the parties in this proceeding.

Exhibit 1: Prosecuting Counsel's Motion for Partial Summary Decision, with the following Exhibits A-I attached thereto:

- Exhibit A: Massachusetts Board of Registration in Nursing Record of Standing of Vanessa Sands, dated September 8, 2006 ("*Record of Standing*").
- Exhibit B: Order to Show Cause, Docket No. RN-05-210, dated May 16, 2006.
- Exhibit C: Respondent's Answer to Order to Show Cause filed June 1, 2006.
- Exhibit D: Certified Copy of Arizona Board of Nursing Consent for Entry of Voluntary Surrender issued *In the Matter of Vanessa Kaye Sands* dated December 28, 2004.
- Exhibit E: Certified Copy of Nevada State Board of Nursing Findings of Fact, Conclusions of Law, and Order dated June 17, 2005 and Decision dated November 9, 2005 issued *In the Matter of Vanessa Sands*.

¹ Paragraph 1 of the Show Cause Order is an introductory paragraph.

² Given the ruling in this matter that Respondent's license is subject to discipline based on her license revocation in two states and falsification of information on her application for nursing license in Massachusetts, the Board dismisses without prejudice the remaining charges in the Show Cause Order. It does so for the purpose of allowing this matter to proceed directly to a sanction hearing and final decision and order without waiting for the completion of a full adjudicatory hearing on the merits of those remaining charges.

³ The evidence in this summary decision proceeding, consisting of Exhibit 1 (A-I) and Exhibit 2, and pleadings and materials filed by the parties, was before the Board. Therefore, no tentative decision is required. 801 CMR 1.01 (11).

- Exhibit F: Certified Copy of Order of Nevada District Court, Clark County Nevada dated June 1, 2006 issued in *Vanessa Sands v. The Nevada State Board of Nursing*, Case No. A 514146.
- Exhibit G: Application for Licensure as a Registered Nurse without Examination submitted by Vanessa Sands to the Board on July 10, 1999.
- Exhibit H: Certified Copy of Barnstable District Court Docket Sheet; Operating Under the Influence (Liquor) guilty finding as to Vanessa Sands, March 26, 1982.
- Exhibit I: Copy of Barnstable Superior Court Case Summary, *Commonwealth v. Venessa Sands*, BACR 1980-40439, regarding July 15, 1980 indictments, August 4, 1980 pleas of not guilty, May 1982 default for failure to appear in court; and April 27, 2005 issuance of arrest warrant.

Exhibit 2: Respondent's October 22, 2006, letter to the Board in response to Motion.

III. Record on Summary Decision: Findings of Fact

Set out below are the facts viewed in the light most favorable to Respondent. In addition, these facts have been established by a preponderance of the evidence:⁴

A. Findings as to Jurisdiction and Notice

1. The Board issued Respondent a license to engage in the practice of nursing in Massachusetts, RN License No. 238831 on or about August 16, 1999. At all times relevant hereto, after that date, Respondent was a registered nurse licensed to practice in the Commonwealth. Her RN license expired on December 17, 2006 and has not been renewed. (Board records of which the Board takes administrative; Exhibit A).

⁴ Under Massachusetts practice, convictions may be proven by certified copies of court records, which constitute substantial evidence of the convictions. G.L. 233, § 69; *Commonwealth v. Atkins*, 386 Mass. 593, 600 (1982); Proposed Massachusetts Rules of Evidence 609(b); Liacos, Paul J., *Handbook of Massachusetts Evidence*, § 6.9.2 (6th Ed. 1994). Prosecuting Counsel has filed a certified copy of the conviction (Exhibit H). Moreover, proof of a conviction is conclusive evidence as to the conduct alleged therein. *Matter of Concemi*, 422 Mass. 326 (1996). Therefore, the Board has before it the fact that Respondent has been convicted of this crime and, by operation of law, conclusive evidence that she engaged in the conduct of which she was convicted.

2. Respondent has been duly notified of these disciplinary proceedings. She has participated in this proceeding by filing an Answer to the Show Cause Order, a Request for a Hearing, and a letter in response to the Motion. (Board records of which the Board takes administrative notice).

B. Findings

3. On or about December 28, 2004, Respondent and the Arizona State Board of Nursing ("Arizona Board") entered into a Consent for Entry of Voluntary Surrender by which Respondent voluntarily surrendered her license to practice as a registered nurse in the state of Arizona for a minimum of five years. In the consent agreement, Respondent admitted that she had tested positive for alcohol and marijuana while on duty as a nurse at St. Joseph's Hospital in Tucson, AZ. She further acknowledged that the Voluntary Surrender constitutes disciplinary action. (Exhibit D).
4. On or about July 1, 2005, Respondent's license to practice as a registered nurse in the state of Nevada was revoked by the Nevada State Board of Nursing as a result of the discipline imposed by the Arizona Board. (Exhibits E and F).
5. In and around July 10, 1999, Respondent submitted to the Board an application for licensure in which she stated that she had never been convicted of a felony or misdemeanor. (Exhibit G). In fact, on or about March 4, 1982, she was found guilty of a misdemeanor, Operating Under the Influence (Liquor)⁵ in Barnstable District Court, Docket No. 05398. (Exhibit H).
6. On or about April 2005, the Barnstable District Court in Docket No. BACR1980-40439 issued a warrant for Respondent's arrest. The arrest warrant was issued as result of Respondent's failure to appear in court in 1982 in connection with several criminal charges brought against her in August 1980, as follows: two charges of distributing or manufacturing a Class B controlled substance; one charge of distributing or manufacturing a Class D controlled substance; and one charge of conspiring to violate the Massachusetts Controlled Substances Act. (Exhibit I).

IV. Applicable Law

The Board has broad authority to regulate the conduct of the nursing profession.

A. Grounds for Discipline

⁵ General Laws, c. 274, § 1, entitled Felonies and Misdemeanors, states: "A crime punishable by death or imprisonment in the state prison is a felony. All other crimes are misdemeanors." A first offense of operating under the influence is a misdemeanor. G.L. c. 90, § 24.

First, the Board has specific statutory authority for taking disciplinary action against a nurse. Massachusetts General Laws Chapter 112, § 61 authorizes the Board to discipline the license of a nurse for misconduct relating to the practice of the profession. Section 61 reads in relevant part:

... [E]ach board of registration ... after a hearing, may ... suspend, revoke or cancel any certificate, registration, license or authority ... if it appears ... that the holder of such certificate, registration, license or authority, ... is guilty of deceit, malpractice, gross misconduct in the practice of his profession, or of any offense against the laws of the commonwealth relating thereto ...

The term "gross misconduct" has been interpreted broadly. *Leigh v. Board of Registration in Medicine*, 395 Mass. 670, 675 (1985). The Supreme Judicial Court (SJC) has allowed agencies to exercise discretion in determining what misconduct constitutes gross misconduct. *Dlugosz v. Board of Registration in Nursing*, SJC, No. 1996-0500, May 24, 2002 (Memorandum and Order), at 9 - 10 (professional's misconduct "taken as a whole" used in determining whether it amounts to "gross misconduct".) Gross misconduct is willful and intentional improper conduct ... a lack of concern for one's conduct amounting to a heedless and palpable violation of a legal duty respecting the rights of others. *Hellman v. Board of Registration in Medicine*, 404 Mass. 800, 804 (1989).

For over thirty years the SJC has made clear that the words "in the practice of the profession" do not limit the Board to jurisdiction over actions that take place on the job or while the licensee is engaged in the direct care or treatment of patients. See *Forziati v. Board of Registration in Medicine*, 333 Mass. 125, 129 (1955). Rather, conduct that occurs outside of the practice of the health care professional and which is "antithetical to a commitment to preserve life, alleviate suffering, and restore health" or which undermines the integrity of the profession can be the basis for imposing sanctions against the license of a health care professional. *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 712, 713 (1982).

Second, the Board can sanction nurses solely for unprofessional conduct and conduct which undermines public confidence in the integrity of the profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, cert. denied, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982) (board has authority to protect the image of the profession); *Reed v. Board of Registration of Psychologists*, Suffolk Superior Court, No. 96-5242-B, August 19, 1997, (Memorandum of Decision and Order) at p. 15 (board has authority to sanction licensee for conduct which it finds to be unprofessional or unethical); *aff'd*, *Reed v. Board of Registration of Psychologists*, Massachusetts Court of Appeals, No. 97-P-2137, April 12, 1999.

Third, consistent with its authority and obligation to protect the public health, safety and welfare, the Board has the authority to impose reciprocal discipline: It has the authority to discipline Respondent's license based on discipline in another state, where, as in the instant case, such discipline is based on conduct that would be the basis for discipline in Massachusetts. *Ramirez v. Board of Registration in Medicine*, 441 Mass. 479 (2004) (reciprocal discipline may be imposed where physician entered into consensual discipline order in foreign jurisdiction; board need not be burdened with trying case). Respondent's license was disciplined in Arizona and Nevada. The basis of Respondent's discipline, of being drug-tested for cause while on duty and of having the test come back positive for alcohol and marijuana, would subject her license to discipline in Massachusetts. *Haran v. Board of Registration in Medicine*, 398 Mass. 571 (1986) (physician whose license was revoked by foreign jurisdiction had no right to "disprove" finding of negligence and professional incompetence before board).

Fourth, and finally, the Board has established regulatory standards for the conduct of nursing. Pursuant to 244 C.M.R. § 9.03, nurses "shall have knowledge and understanding" of these standards. The relevant regulatory subsections in this case include: 244 CMR 9.03 (5) (engaging in conduct in violation of accepted standards of nursing practice) and 244 CMR 9.03 (47) (engaging in conduct that fails to conform to accepted standards of nursing practice or in any other behavior that is likely to have an adverse effect upon the health, safety, or welfare of the public); and 244 CMR 9.03 (31) (knowingly falsifying information related to aspects of licensure as a nurse).

B. Summary Decision

The standard governing summary decision in an administrative proceeding is found at administrative regulation 801 CMR 1.01 (7) (h) of the Standard Adjudicatory Rules of Practice and Procedure and corresponds to that articulated in the Massachusetts Rules of Civil Procedure, Rule 56. *Caitlin v. Board of Registration of Architects*, 414 Mass. 1, 7 (1992). Summary decision should be entered 1) when there is no genuine issue of material fact; and 2) when there is substantive law under which such decision may be entered for the moving party. *Theran v. Rokoff*, 413 Mass. 590, 591 (1992). A party moving for summary decision assumes the burden of affirmatively demonstrating that there is no genuine issue of fact on every relevant issue raised by the pleadings. *Attorney General v. Bailey*, 386 Mass. 371 (1982); *Mack v. Cape Elizabeth School Bd.*, 553 F.2d 720, 722 (1st Cir. 1977). All doubt as to the existence of a genuine issue of material fact must be resolved against the party moving for summary decision. *Noble v. Goodyear Tire & Rubber Co.*, 34 Mass. App. Ct. 397, 402 (1993). "If the moving party establishes the absence of a triable issue, the party opposing the motion must respond and allege specific facts which would establish the existence of a genuine issue of material fact in order to

defeat [the] motion." *Pederson v. Time, Inc.*, 404 Mass. 14, 16-17 (1989); "[T]he opposing party cannot rest on his or her pleadings and mere assertions of disputed facts to defeat the motion for summary judgment." *LaLonde v. Eissner*, 405 Mass. 207, 209 (1989).

V. Discussion

In this case, there is no genuine dispute with respect to Findings of Fact ¶¶ 1-5 that: (1) Respondent's license was disciplined by the Arizona Board in December 2004 based on testing positive for alcohol and marijuana while working as a nurse in Arizona; (2) Respondent's license was disciplined by the Nevada Board in July 2005 based on the Arizona discipline; and (4) that Respondent falsely stated on her application submitted to this Board in 1999 that she had never been convicted of a misdemeanor, when she had been found guilty of a misdemeanor of Operating Under the Influence (Liquor) in 1982. Moreover, Prosecuting Counsel has established as a matter of law that he is entitled to summary decision as to these charges. As articulated more specifically in the Conclusion of Law section below (and not repeated here), Respondent's conduct as to these three matters violates various statutes and regulations governing the practice of nursing.

However, the Motion also seeks summary decision as to Findings of Fact ¶ 6 (Paragraph 6 of the Show Cause Order). Paragraph 6 concerns several 1980 indictments against Respondent, Respondent's default for not appearing in court in 1982 in connection with those indictments, and an arrest warrant issued in 2005 for failing to appear in court in 1982. Prosecuting Counsel has established these facts by certified court record and the facts are not in dispute. (Exhibit I). Nonetheless, in a motion for summary decision, the moving party has the burden of establishing not only that there are no facts in dispute, but also that there is substantive law under which a ruling may be entered in his favor. The Motion's broad-brush legal arguments assert that Respondent's conduct as alleged in Paragraph 6 violates various statutes and regulations, without articulating sufficient legal grounds or precedent in support of this position. For example, the Motion cites no law in support of its implied assertion that the Board may sanction a nurse based solely on an indictment. Prosecuting Counsel has not demonstrated, as he must to prevail on summary decision, that he is entitled to a ruling in his favor as a matter of law as to Paragraph 6. His Motion as to Paragraph 6 is denied.

VI. Conclusions of Law⁶

1. Based on Finding of Fact at ¶ 1, above, the Board has jurisdiction to hear this disciplinary matter involving Respondent's current RN license. *Wang v. Board of Registration in Medicine*, 405 Mass. 15, 19-20 (1989) (where

⁶ Any sanction that the Board imposes, after the opportunity for a hearing, may be based on each severable violation as well as the totality of Respondent's conduct.

professional lacked current license to practice in the Commonwealth, board had jurisdiction based on professional's inchoate right to renew license).

2. Based on Finding of Fact at ¶ 2, above, Respondent has been duly notified of this proceeding.

3. Based on Findings of Fact at ¶¶ 3-5 above, the Arizona Board's and the Nevada Board's discipline of Respondent's license for conduct that would subject her license to discipline in Massachusetts, and Respondent's falsification of information on her application for a nursing license, constitute gross misconduct warranting discipline under G.L. c. 112, § 61; violate Standards of Conduct for Nurses, specifically: 244 CMR 9.03 (5) (engaging in conduct in violation of accepted standards of nursing practice) and 244 CMR 9.03 (47) (engaging in conduct that fails to conform to accepted standards of nursing practice or in any other behavior that is likely to have an adverse effect upon the health, safety, or welfare of the public); and constitute unprofessional conduct and conduct that undermines public confidence in the integrity of the nursing profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, 143, cert. denied, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 712-713 (1982).

4. Based on Finding of Fact at ¶ 5 above, Respondent's conviction for Operating Under the Influence (Intoxicating Liquor), her conduct underlying the conviction, and her falsification of information on her application for a nursing license, constitute offenses against the laws of the Commonwealth warranting discipline under G.L. c. 112, § 61.

5. Based on Finding of Fact at ¶ 5 above, Respondent's false answer on her application of licensure that she had never been convicted of a felony or misdemeanor constitutes a violation of 244 CMR 9.03 (31) (knowingly falsifying information related to aspects of licensure as a nurse).

VII. Ruling

The Board grants the Motion as to Paragraphs 3, 4 and 5 of the Show Cause Order (which correspond to Findings of Fact ¶¶ 3, 4, and 5 herein). The remaining charges in the Show Cause Order, Paragraphs 2 and 6, are dismissed without prejudice. The Board notifies Respondent of her right to request a sanction hearing.

Respondent is hereby notified that she has a right to a hearing on the issue of sanctions. *Veksler v. Board of Registration in Dentistry*, 429 Mass. 650 (1999). Respondent will waive this right if she or her counsel do not complete and file the enclosed form with the AHC within seven (7) days of the date of the issuance of this ruling. Respondent's failure to request a sanction hearing by

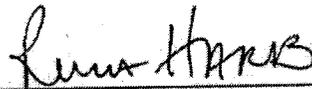
timely returning the enclosed form will result in the Board deciding on a sanction without Respondent's input. If Respondent fails to request a sanction hearing in a timely manner, the Board may revoke, suspend, or take other disciplinary action against Respondent's license to practice as a registered nurse in the Commonwealth of Massachusetts, or her right to renew her license.

The Board has broad discretion to determine the proper sanctions for misconduct..." *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 347-8 (1996); *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, 143 (1990). Where, as in this case, the Board's discipline is based on a nurse having been disciplined in another state, the Board has the discretion to impose discipline different from that imposed by the other state.

At its meeting on October 8, 2008, the Board voted to adopt the Proposed Ruling on Prosecuting Counsel's Motion for Partial Summary Decision and grant the Motion by the following vote: In favor: Janet Sweeney Rico, RN, NP, Maura Flynn, LPN & RN, Sandra Kelly, RN, NP, Joan Killion, LPN, Donna Lampman, MSN, RN, E. Richard Rothman, Paulette Remijan, RN, NP, Catherine L. Simonian, RPh, Phillip Waithe, RN, Cilorene Weekes-Cabey, RN; Opposed: None Abstained: None Absent: Mary Jean Roy, MS, M.Ed., RN.

Board of Registration in Nursing

Date Issued: October 16, 2008



Rula Harb, MSN, RN
Executive Director

Enc: Sanction Hearing Request Form

Notified: VS; EL

VIA FIRST CLASS AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED No. 7003 1010 0003 3509 8246

Vanessa Sands
145 Hudson Street
Northborough, MA 01532

Eugene Langner, Prosecuting Counsel
Office of Prosecutions
Division of Health Professions Licensure
Department of Public Health
239 Causeway Street
Boston, MA 02114

MASSACHUSETTS BOARD OF REGISTRATION IN NURSING

ATTACHMENT A

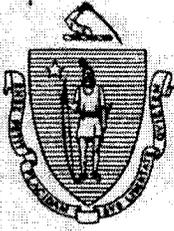
Guidelines for Nurses' Participation in Random Urine Drug Screens for Evaluation by the Massachusetts Board of Registration in Nursing (Board)

- I. Nurses who are required by a Board Agreement or Order to have random, supervised urine drug screens are expected to remain abstinent from all substances of abuse, including alcohol. It is a nurse's responsibility not to ingest any substance(s) that may produce a positive drug screen, including over-the-counter medications. Unless otherwise stated in a nurse's Board Agreement or Order, all nurses shall be randomly tested a minimum of twelve (12) times per year.
- II. The Board designates one Drug Testing Management Company (DTMC).¹ The Board will accept only the results of urine drug screens that are performed under the auspices of the DTMC and reported directly to the Board.
- III. All costs related to a nurse's participation in the DTMC urine drug screening program are the responsibility of the participating nurse.
- IV. A nurse is expected to sign an agreement with the DTMC and to comply with all of the conditions and requirements of the agreement with the DTMC and any related policies, including without limitation, any requirements related to supervision of urine collection and/or temperature checks.
- V. No vacations from calling to test or from testing shall be approved. This does not mean that a nurse cannot take a vacation while participating in random urine screens; arrangements can be made through the DTMC to have urine screens done at approved laboratories throughout the continental U.S.
- VI. Failure to call the DTMC or failure to test when selected shall be considered non-compliance with the nurse's Board agreement or Order. Calls to the DTMC must be made between the hours of 5:00 a.m. and 1:00 p.m.
- VII. Failure to test when selected, and/or a positive drug screen that is confirmed by the Medical Review Officer (MRO) and that is not supported by appropriate documentation of medical necessity and a valid prescription shall be considered as a relapse in the nurse's abstinence. All prescriptions for any medication (including renewal prescriptions) must be submitted to the DTMC within five (5) days.
- VIII. Urine drug screen reports that show a low creatinine (<20 mg/dl) may be an indication of an adulterated or diluted specimen; further testing may be required.

¹ The current DTMC is First Lab. The Board shall notify the Licensee in writing of any changes in the designated DTMC. To contact First Lab call (800) 732-3784.

MASSACHUSETTS BOARD OF REGISTRATION IN NURSING

- IX. Nurses who do not have a current MA nursing license and who are enrolled in urine drug screening with the DTMC for the purpose of documenting to the Board that they are in stable and sustained recovery from substance abuse, must provide written authorization to the DTMC to release to the Board a complete record of their participation in the drug screening program, including documentation of missed calls, no shows, test results and a full history report at the completion of their DTMC participation. During their DMTC participation, nurses who do not have a current MA nursing license for whatever reason (surrender, suspension, lapse, revocation) are expected to designate a monitor of their choosing (e.g. friend, family member, health care provider, AA sponsor) who will be authorized to receive test results from the DTMC. The Board does not monitor the testing of unlicensed individuals and will evaluate a nurse's participation in the DTMC only when the DTMC testing is completed and the nurse applies for license reinstatement. Unlicensed nurses should identify themselves as such to the DTMC and sign an individual agreement with the DTMC.
- X. Random supervised urine tests are done in panels which shall include, but are not limited to, each of the following substances:
- Ethanol and all ethanol products
 - Amphetamines
 - Barbiturates
 - Benzodiazepines
 - Buprenorphine
 - Cannabinoids
 - Cocaine (metabolite)
 - Opiates:
 - Codeine
 - Morphine
 - Hydromorphone
 - Hydrocodone
 - Oxycodone
 - Phencyclidine
 - Methadone
 - Propoxyphene
 - Meperidine
 - Tramadol



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street, Suite 200, 2nd Floor, Boston, MA 02114
(617) 973-0800

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

JUDYANN BIGBY, MD
SECRETARY

JOHN AUERBACH
COMMISSIONER

October 16, 2008

VIA FIRST CLASS AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED No. 7003 1010 0003 3509 8246

Vanessa Sands
145 Hudson Street
Northborough, MA 01532

VIA INTEROFFICE DELIVERY

Eugene Langner, Prosecuting Counsel
Office of Prosecutions
Division of Health Professions Licensure
Department of Public Health
239 Causeway Street
Boston, MA 02114

RE: In the Matter of Vanessa Sands
Board of Registration in Nursing Docket No. RN-05-210

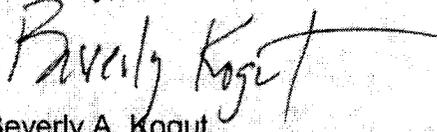
Dear Ms. Sands and Mr. Langner:

Enclosed is the *Board Ruling on Prosecuting Counsel's Motion for Partial Summary Decision ("Ruling")* issued on October 16, 2008 by the Board of Registration in Nursing (Board) in connection with the above-referenced matter. Respondent, Ms. Sands, has a right to a hearing on the issue of sanctions. She will waive this right if the enclosed sanction hearing request form is not completed and filed with Administrative Hearings Counsel within seven (7) days of the date on this letter.

If a timely filed request for a sanction hearing is filed, the Board will schedule a sanction hearing and will notify the parties of the date, time and location of the hearing.

Failure to timely request a sanction hearing will result in the Board deciding on a sanction without Respondent's input.

Sincerely,

A handwritten signature in black ink that reads "Beverly Kogut". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Beverly A. Kogut
Administrative Hearings Counsel
(617) 973-0813

Enc.

**SUMMARY DECISION HAS BEEN GRANTED IN THIS CASE.
TO REQUEST A HEARING ON SANCTIONS THIS FORM MUST BE FILED
WITH ADMINISTRATIVE HEARINGS COUNSEL WITHIN SEVEN DAYS OF
THE ISSUANCE OF THE ENCLOSED BOARD RULING ON PROSECUTING
COUNSEL'S MOTION FOR SUMMARY DECISION**

**Beverly A. Kogut, Esq.
Administrative Hearings Counsel
Division of Health Professions Licensure
Department of Public Health
Office of Legal Counsel
239 Causeway Street, Suite 200, 2nd Floor
Boston, MA 02114**

**Re: In the Vanessa Sands
RN License No. 238831 (License Expiration Date 12/17/06)
Board of Registration in Nursing Docket No. RN-05-210**

To Administrative Hearings Counsel:

- (1) Please schedule a hearing on sanctions in the above-referenced matter.**
- (2) Here is confirmation of Respondent's address to which all mail and notices, including notices of hearing, should be sent.**

Name: _____

Address: _____

Signed by Respondent or her counsel,

Dated: _____

Mail this form to the Administrative Hearings Counsel at the above address. This form must be filed within seven days of the date of the Board Ruling on Prosecuting Counsel's Motion.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING

IN THE MATTER OF)
VANESSA SANDS)
RN LICENSE NO. 238831)
RN LICENSE EXP. DATE 12/17/06)
_____)

DOCKET NO. RN-05-210

**BOARD RULING ON PROSECUTING COUNSEL'S
MOTION FOR PARTIAL SUMMARY DECISION**

I. Procedural Background

On May 16, 2006, the Board of Registration in Nursing (Board) commenced this disciplinary proceeding against the license of Vanessa Sands (Respondent) to practice as a Registered Nurse in the Commonwealth of Massachusetts (RN License No. 238831) by issuing and duly serving on her an Order to Show Cause (Show Cause Order) (the Show Cause Order is incorporated by reference in this ruling). The Show Cause Order makes five charges against Respondent's license for: (1) in or about March 2005, while employed as a nurse in Massachusetts, failing to adhere to accepted standards of nursing practice regarding asepsis, disease transmission, documentation and handling of controlled substances (Show Cause Order ¶ 2); (2) having her license disciplined by the Arizona Board of Nursing (Arizona Board) in December 2004 (Show Cause Order ¶ 3); (3) having her license disciplined by the Nevada Board of Nursing (Nevada Board) in July 2005 based on the Arizona discipline (Show Cause Order ¶ 4); (4) falsely stating on her application submitted to this Board in 1999 that she had never been convicted of a misdemeanor or a felony, when she had been found guilty of a misdemeanor, Operating Under the Influence (Liquor), in 1982 (Show Cause Order ¶ 5); and (5) on or about April 2005, in Barnstable District Court Docket No. BACR1980-40439, having a warrant issued for her arrest as a result of failing to appear in court in 1982 in connection with the following indictments issued against her in 1980: two charges of distributing or manufacturing a Class B controlled substance, one charge of distributing or manufacturing a Class D controlled substance and one charge of conspiring to violate the Massachusetts Controlled Substances Act (Show Cause Order ¶ 6).

On June 1, 2006, Respondent filed an answer, admitting certain allegations and denying others. On September 8, 2006, Prosecuting Counsel filed a Motion for Partial Summary Decision (Motion) as to Show Cause Order Paragraphs 3-6 only. He did not move for summary decision as to the charges

raised in Show Cause Order Paragraphs 1 and 2.¹ On October 30, 2006, Respondent filed a letter in response. In her letter, she does not dispute facts material to the Motion, but requests that the Board place her license on inactive status and let it expire on the expiration date of December 17, 2006. For the reasons set forth below, the Board **GRANTS** the Motion as to Show Cause Order Paragraphs 3, 4, and 5, as described herein, denies the Motion as to Paragraph 6, dismisses without prejudice Show Cause Order Paragraphs 2 and 6,² and notifies Respondent of her right to request a hearing on disposition.³

II. Exhibits

The record on summary decision contains the following materials, in addition to pleadings and other documents filed with the Administrative Hearings Counsel (AHC) by the parties in this proceeding.

Exhibit 1: Prosecuting Counsel's Motion for Partial Summary Decision, with the following Exhibits A-I attached thereto:

- Exhibit A: Massachusetts Board of Registration in Nursing Record of Standing of Vanessa Sands, dated September 8, 2006 (*"Record of Standing"*).
- Exhibit B: Order to Show Cause, Docket No. RN-05-210, dated May 16, 2006.
- Exhibit C: Respondent's Answer to Order to Show Cause filed June 1, 2006.
- Exhibit D: Certified Copy of Arizona Board of Nursing Consent for Entry of Voluntary Surrender issued *In the Matter of Vanessa Kaye Sands* dated December 28, 2004.
- Exhibit E: Certified Copy of Nevada State Board of Nursing Findings of Fact, Conclusions of Law, and Order dated June 17, 2005 and Decision dated November 9, 2005 issued *In the Matter of Vanessa Sands*.

¹ Paragraph 1 of the Show Cause Order is an introductory paragraph.

² Given the ruling in this matter that Respondent's license is subject to discipline based on her license revocation in two states and falsification of information on her application for nursing license in Massachusetts, the Board dismisses without prejudice the remaining charges in the Show Cause Order. It does so for the purpose of allowing this matter to proceed directly to a sanction hearing and final decision and order without waiting for the completion of a full adjudicatory hearing on the merits of those remaining charges.

³ The evidence in this summary decision proceeding, consisting of Exhibit 1 (A-I) and Exhibit 2, and pleadings and materials filed by the parties, was before the Board. Therefore, no tentative decision is required. 801 CMR 1.01 (11).