



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.
William O'Hanlon
Executive Director of the Board

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Applicant
MARK HOWARD DUNCAN

§
§

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594422

CONSENT ORDER

Following receipt of information, a hearing was held on March 10, 1993, at the office of the Board of Nurse Examiners, hereinafter referred to as the Board, in accordance with Article 4525(b), Revised Civil Statutes of Texas, as amended. MARK HOWARD DUNCAN, hereinafter referred to as Applicant, was in attendance. The Executive Director of the Board presided at the hearing and makes the following:

FINDINGS OF FACT

1. Applicant desires to practice professional nursing in the State of Texas.
2. Applicant completed his Associate Degree at Odessa College, Odessa, Texas on May 10, 1993 and has applied for a permit to practice as a graduate nurse and to sit for the NCLEX-RN Examination in July, 1993.
3. On or about March 28, 1988, Applicant was convicted of the misdemeanor offense of Driving While Intoxicated, in the Municipal Court of the Desert Judicial District, County of Riverside, State of California, under Cause No. 84804. As a result of said conviction, Applicant was placed on probation for a period of three (3) years.
4. On or about March 14, 1990, Applicant was convicted of the misdemeanor offense of Public Intoxication, in the Municipal Court of Odessa, Texas. Applicant was fined \$125.00.
5. On or about March 28, 1991, Applicant was convicted of the misdemeanor offense of Driving While Intoxicated, in the County Court of Law No. 2 of Ector County, Texas, under Cause No. M-91-138-C. As a result of said conviction, Applicant was placed on probation for a period of one (1) year.

6. On or about September 15, 1992, Applicant was issued an Order by the Board of Vocational Nurse Examiners allowing him to write the Examination for Licensure and upon obtaining a passing score, be issued a license to practice Vocational Nursing in the State of Texas. Said license was suspended, the suspension was stayed and applicant was placed on probation for one (1) year.
7. Applicant desires to begin a career in professional nursing.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter.
2. Based upon the evidence received, Applicant is in violation of Article 4525(a)(7) and (8), Revised Civil Statutes of Texas, as amended.
3. The evidence presented constitutes sufficient evidence to take action under powers granted by Article 4525(b), Revised Civil Statutes of Texas, as amended.

APPLICANT'S STATEMENT OF AGREEMENT

By signature on this Order, I agree to entry of this Order dispensing with the need for further disciplinary action in this matter. I understand that:

1. This Order is subject to ratification by the Board at their next regularly scheduled meeting;
2. If this Order is ratified by the Board, I will be issued a permit to practice as a graduate nurse and be allowed to sit for the NCLEX-RN Examination.
3. I have the right to legal counsel prior to entering into this Order.

I have reviewed this Order. I consent to the denial of my application, with that denial probated for a period of two (2) years of practice as a professional nurse.

I further consent to adhere to the following stipulations for two (2) years of employment as a professional nurse:

(1) Applicant shall be supervised by a professional nurse who is on the premises. Applicant shall work only regularly assigned, identified and predetermined unit(s). Applicant shall not be employed by a nurse registry, temporary nurse employment agency or home health agency. Applicant shall not be self employed or contract for services. Multiple employers are prohibited.

(2) Applicant shall cause each employer to submit, on forms provided by the Board, periodic reports as to Applicant's capability to practice professional nursing. These reports shall be completed by the professional nurse who supervises the Applicant. These reports shall be submitted to the office of the Board at the end of each three (3) months for two (2) years of employment as a professional nurse.

(3) Applicant shall not practice as a professional nurse on the night shift, rotate shifts, work overtime, accept on-call assignments, or be used for coverage on any unit other than the assigned unit(s) for one (1) year of employment as a professional nurse

(4) Applicant shall not practice as a professional nurse in any critical care area for one (1) year of employment as a professional nurse. Critical care areas include, but are not limited to, intensive care unit, emergency room, operating room, recovery room and labor and delivery units.

(5) Applicant shall not administer or have any contact with controlled substances, Nubain, or Stadol for one (1) year of employment as a professional nurse.

(6) Applicant shall abstain from the consumption of alcohol, Nubain, Stadol and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. Applicant 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 to the office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription.

(7) Applicant shall submit to random periodic screens for controlled substances and alcohol.

For the first three (3) month period, random screens are to be performed at least once per month for three (3) months.

For the remainder of the stipulation/probation period, random screens are to be performed at least once every three (3) months.

All screens shall be properly monitored and production of specimen personally observed by the employer's designee. A complete chain of custody shall be maintained for each specimen obtained and analyzed.

Applicant shall cause the employer/laboratory to send the written results of each random screen to the Office of the Board within five (5) days of the date that the screen is analyzed. If any screen tests positive for alcohol and/or controlled substances for which the Applicant does not have a valid prescription, the employer/laboratory shall report such results to the Board Office on the day that the results are received by calling the Board Office and reporting the positive results to an investigator.

(8) Applicant shall participate in therapy with a "professional counselor" possessing credentials approved by the Board. Applicant shall cause the therapist to submit written reports, on forms provided by the Board, as to the Applicant's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate that the Applicant's emotional stability is sufficient to provide direct patient care safely. Such reports are to be furnished each and every month for three (3) months or until Applicant is dismissed from therapy. The reports shall then be required at the end of each three (3) months for the duration of the stipulation period, or until Applicant is dismissed from therapy.

(9) Applicant shall attend at least two (2) support group meetings each week and shall provide acceptable evidence of attendance. Acceptable evidence means the date of each meeting, the name of each group attended, and the signature or signed initials of the chairperson of each group attended by Applicant. The weekly meetings shall consist of a minimum of one (1) support group for substance abuse. Applicant shall submit the required evidence on the forms provided by the Board at the end of every three (3) months. No duplications, copies, third party signatures, or any other substitutions will be accepted as evidence.

Dated the 13 day of May, 1993.

Mark Howard Duncan
MARK HOWARD DUNCAN

Sworn to before me this 13th day of May, 1993.

Notary Public John May
In and for the State of Texas

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Consent Order signed by MARK HOWARD DUNCAN, on the 13th day of May, 1993, and said Order is final.

Entered this 25th day of May, 1993.



Louise Waddill, Ph.D., R.N.
Executive Director on behalf of said Board



BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS



Mailing Address:

BOX 140466

AUSTIN, TEXAS 78714

9101 BURNET ROAD, SUITE 104

AUSTIN, TEXAS 78758 • AC 512/835-4880

LOUISE WADDILL, PhD, RN
EXECUTIVE DIRECTOR

July 3, 1995

Mark H. Duncan
5135 Ganymede Drive
Austin, Texas 78727

Dear Mr. Duncan:

This office is in receipt of your final Nursing Performance Evaluation, Random Drug Screen, and Support Group Attendance Verification forms. You are no longer required to submit reports to this office. Our file reflects that all requirements of the Order of the Board entered on May 25, 1993, have been met.

Enclosed you will find your current certificate of re-registration, which no longer bears the restricted designation.

If you have any questions, please contact me at (512) 835 8673.

Sincerely,

Korena Schaaf
Administrative Technician II
Monitoring

0994/160

MEMBERS OF THE BOARD

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TEMPLE, TEXAS

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AUSTIN, TEXAS

IRIS L. SNELL, RN
DALLAS, TEXAS

BOARD OF VOCATIONAL NURSE EXAMINERS

STATE OF TEXAS

VS.

MARK HOWARD DUNCAN

COUNTY OF TRAVIS

AGREED BOARD ORDER

On this day came to be considered by the Board of Vocational Nurse Examiners the matter of MARK HOWARD DUNCAN, an Applicant for Licensure by Examination, hereinafter called Applicant.

By letter, the Board of Vocational Nurse Examiners sent preliminary notice to Applicant of its intent to take disciplinary action with respect to said Application for Licensure as a result of a subsequent investigation. Said investigation produced evidence indicating that Applicant has been convicted of a crime of the grade of felony or a crime of a lesser grade which involves moral turpitude, in violation of Article 4528c, Section 10 (a) (3), Revised Civil Statutes of Texas, in the following manner:

a. On or about May 18, 1992, Applicant submitted his Application for Licensure by Examination to the Board of Vocational Nurse Examiners for the State of Texas. On said Application, Applicant answered "yes" to item 30 asking: "Have you ever been convicted and/or pled guilty to a felony or misdemeanor other than a minor traffic violation?".

b. On or about March 28, 1988. Applicant was convicted of the misdemeanor offense of Driving While Intoxicated, in the Municipal Court of The Desert Judicial District, County of Riverside, State of California, under Cause No. 84804. As a result of said conviction, Applicant was placed on probation for a period of three (3) years.

c. On or about March 14, 1990, Applicant was convicted of the misdemeanor offense of Public Intoxication, in the Municipal Court of Odessa, Texas. Applicant was fined \$125.00.

d. On or about March 28, 1991, Applicant was convicted of the misdemeanor offense of Driving While Intoxicated, in the County Court at Law No. 2 of

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AGREED BOARD ORDER

Re: Mark Howard Duncan, Exam Applicant

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Ector County, Texas, under Cause No. M-91-138-C. As a result of said conviction, Applicant was placed on probation for a period of one (1) year.

e. Said convictions are inconsistent with the basic duties and responsibilities inherent in the occupation of vocational nursing in that said occupation requires knowledge and familiarity of drugs, and compliance with drug laws.

By Applicant's signature on this Order, Applicant neither admits nor denies the truth of the matters previously set out in this Order with respect to the above mentioned investigation. By Applicant's signature on this Order, Applicant acknowledges that he has read and understood this Order and has approved it for consideration by the Board.

By his notarized signature on this Order, Applicant does hereby waive the right to Notice of a Formal Hearing, and a Formal Hearing before the Board of Vocational Nurse Examiners, and to judicial review of this disciplinary action. Notice of this disciplinary action will appear in the Board's newsletter sent to Texas employers.

ORDER OF THE BOARD

THEREFORE, PREMISES CONSIDERED, The Board of Vocational Nurse Examiners does hereby order that MARK HOWARD DUNCAN be allowed to write the examination for licensure and upon obtaining a passing score be issued a license to practice vocational nursing in the State of Texas. Said license shall be suspended, with said suspension stayed and placed on probation for a period of one (1) year.

AGREED BOARD ORDER

Re: Mark Howard Duncan, Exam Applicant

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The probat ion of said license is subject to the following stipulations, to-wi'

1. That by copy of this Board Order, Applicant shall provide notice of Board disciplinary action to his nursing employer(s), throughout the term of probation.
2. That Applicant shall cause his nursing employer(s) to submit satisfactory reports to the Board office on a quarterly basis throughout the term of probation.
3. That Applicant shall work only under the direct supervision of a licensed medical professional throughout the term of probation.
4. That Applicant shall not be employed by a nurse registry/temporary nurse agency or as a private duty nurse throughout the term of probation.
5. That Applicant shall submit to random periodic blood alcohol drug screens upon demand of the Board staff throughout the term of probation. Said screens shall be properly monitored with adherence to chain of custody procedures. The results of said screens shall be submitted to the Board office by the laboratory. The expense of said screens shall be borne by Applicant.
6. That any period(s) of unemployment must be documented in writing by Applicant and submitted directly to the Board office on a quarterly basis throughout the term of probation.
7. Further, that if Applicant's place of employment, name, address or telephone number changes, Applicant is to notify the Board office immediately.
8. It is also ordered that MARK HOWARD DUNCAN shall comply with all the provisions of Article 4528c, Revised Civil Statutes of Texas.

This Agreed Order shall not be effective or take effect and become enforceable in accordance with its terms until endorsed by a majority of the Board present and voting, at its next regularly called session.

AGREED BOARD ORDER

Re: Mark Howard Duncan, Exam Applicant

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Dated this the 22 day of June, 1992.

Mark H. Duncan
Signature of Applicant

1449 Parkway #2D
Current Address

Odessa, Texas 79761
City, State and Zip

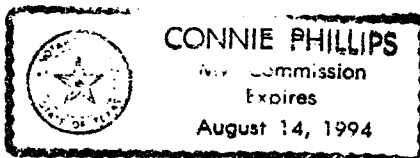
915, 362-4521
Area Code and Telephone Number

The State of Texas

County of ECTOR

Before me, the undersigned authority, on this day personally appeared MARK HOWARD DUNCAN, who being duly sworn by me stated that he or she executed the above for the purpose therein contained, and that he or she understood same.

SWORN TO AND SUBSCRIBED before me this the 22ND day of JUNE, 1992.



Connie Phillips
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires 8-14-94

Marjorie A. Bronk, R.N.
Marjorie A. Bronk, R.N.
Agent for the Board of
Vocational Nurse Examiners

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 22nd day of June, 1992.

Georgann P. Reynolds
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

JUN 23 1992

AGREED ORDER

RE: MARK HOWARD DUNCAN, EXAM APPLICANT

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ENDORSEMENT OF THE BOARD
To The Agreed Board Order
in the matter of MARK HOWARD DUNCAN
EXAM APPLICANT

At its regularly called session, 15th day of September, 1992, came on to be considered the indicated Agreed Board Order pertaining to MARK HOWARD DUNCAN. The Board having reviewed the contents of said Order, the Order should be, and is hereby, endorsed as an Order of the Board and made an official act of the Board of Vocational Nurse Examiners for the State of Texas.

Said Order is rendered this the 15th day of September, 1992.

Betty Fox McEmore
Paul Robinson
Charlotte J. Siggard Low
Phyllis Hester
Donis A. Hansen
Rick Tordella

Wanda Jean Clark
Annie Mae Parker Lee
Carmen M. Davis
Virginia M. Bauman
Betty Fox McEmore

AGREED ORDER

RE: MARK HOWARD DUNCAN, EXAM APPLICANT

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of September 19 92
a true and correct copy of the foregoing Order was served by placement in the
U.S. Mail, first class, and addressed to the following person(s):

Mark Howard Duncan
1449 Parkway #2D
Odessa, Tx. 79761

Marjorie A Bronk, RN
Marjorie Bronk, R.N.
Executive Director
Agent for the Board of Vocational Nurse Examiners