



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	§	AGREED
Registered Nurse License Number 594422	§	
& Vocational Nurse License Number 138401	§	
issued to MARK HOWARD DUNCAN	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of MARK HOWARD DUNCAN, Registered Nurse License Number 594422, and Vocational Nurse License Number 138401, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may be subject to discipline pursuant to Section 301.452(b)(2),(3)&(10) and 301.453, Texas Occupations Code. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order approved by Katherine A. Thomas, MN, RN, FAAN, Executive Director, on August 20, 2012, 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(s).
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 and vocational nursing in the State of Texas.
4. Respondent received a Certificate in Vocational Nursing from Odessa College, Odessa, Texas, on May 15, 1992. Respondent was licensed to practice vocational nursing in the State of Texas on December 6, 1992. Respondent received an Associate Degree in Nursing from Odessa College, Odessa, Texas, on June 1, 1993. Respondent was licensed to practice professional nursing in the State of Texas on September 22, 1993.

5. Respondent's nursing employment history includes:

1993 - Unknown	RN	Odessa Hospital Odessa, Texas
1993 - Unknown	RN	HealthSouth Rehabilitation Hospital Midland, Texas
1994 - 2006	RN	St. David's Medical Center Austin, Texas
2006 - Present	RN	South Austin Medical Center Austin, Texas

6. On or about September 15, 1992, Respondent's license to practice vocational nursing was suspended, with said suspension stayed, and placed on probation by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Order of the Board dated September 15, 1992 is attached and incorporated by reference as part of this Order.
7. On or about May 13, 1993, Respondent was issued a Consent Order by the Board of Nurse Examiners for the State of Texas. A copy of the Findings of Fact, Conclusions of Law, Applicant's Statement of Agreement and Consent Order dated May 25, 1993, is attached and incorporated by reference as part of this Order.
8. On or about September 12, 2004, Respondent submitted an online renewal application to the Board of Nurse Examiners for the State of Texas in which he provided false, deceptive, and/or misleading information, in that he answered "no" to the following question: "Have you been convicted, adjudged guilty by a court, plead guilty, no contest or nolo contendere to any crime in any state, territory or country, whether or not a sentence was imposed, including any pending criminal charges or unresolved arrest (excluding minor traffic violations) since the last renewal? This includes expunged offenses and deferred adjudications with or without prejudice of guilt. Please note that DUI's, DWI's, PI's must be reported and are not considered minor traffic violations. (One time minor in possession [MIP] or minor in consumption [MIC] do not need to be disclosed, therefore, you may answer "No". If you have two or more MIP's or MIC's, you must answer "Yes".)"

Respondent failed to disclose that on or about March 20, 2004, he was arrested for the offense of "Boating while Intoxicated 2nd," a Class A Misdemeanor by the Williamson County Sheriff's Office, Georgetown, Texas.

9. On or about September 28, 2004, Respondent plead no contest to the offense of "Driving While Intoxicated," a Class B Misdemeanor (committed on March 20, 2004) in the County Court at Law Number 1 of Williamson County, Texas, under cause number 04-1821-1. Respondent was sentenced to one hundred eighty (180) days confinement in the Williamson

County Jail. The imposition of the confinement was suspended and Respondent was placed on probation for a period of twenty-one (21) months, and ordered to pay a fine and court costs.

10. On or about October 23, 2006, Respondent submitted an online renewal application to the Board of Nurse Examiners for the State of Texas in which he provided false, deceptive, and/or misleading information, in that he answered "no" to the following question: "Have you ever been convicted, placed on community supervision whether or not adjudicated guilty, sentenced to serve jail or prison time or granted pre-trial diversion, or plead guilty, no contest or nolo contendere to any crime in any state, territory or country, or received a court order whether or not a sentence was imposed, including any pending criminal charges or unresolved arrests whether or not an appeal (excluding minor Class C traffic violations)? This includes expunged offenses and deferred adjudications with or without a finding of guilt. Please note that DUIs, DWIs, PIs must be reported and are not considered minor traffic violations. One time minor in possession [MIP] or minor in consumption [MIC] does not need to be disclosed; therefore, you may answer "No." If you have two or more MIP's or MIC's, you must answer "Yes." You may answer "No" if you have previously disclosed a criminal matter otherwise responsive to this question in a renewal and/or licensure form."

Respondent failed to disclose that on or about September 28, 2004, he plead no contest to the offense of "Driving While Intoxicated," a Class B Misdemeanor (committed on March 20, 2004) in the County Court at Law Number 1 of Williamson County, Texas, under cause number 04-1821-1. Respondent was sentenced to one hundred eighty (180) days confinement in the Williamson County Jail. The imposition of the confinement was suspended and Respondent was placed on probation for a period of twenty one (21) months, and ordered to pay a fine and court costs.

11. In response to the incidents in Finding of Fact Number Eight (8), Respondent states that he found the question confusing since he had not had a court hearing, he had not plead to anything, and he had not been convicted. Respondent states that he did not intentionally answer wrong. Respondent further adds that he has never been arrested for "Boating while Intoxicated," however, on March 20, 2004, he was arrested for "Driving While Intoxicated" after driving home from a concert. In response to Finding of Fact Number Nine (9), Respondent states that the charges are accurate. After consulting with an attorney, he made a voluntary self-report to the Board on August 20, 2010 regarding the arrest and the suspension and probation. In response to Finding of Fact Number Ten (10), Respondent states that he misread or misunderstood the question because he received probation. Respondent adds that he found the question confusing, but he did not intend to provide a false answer or mislead the Board.
12. 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 violation(s) of and 22 TEX. ADMIN. CODE §217.12(6)(I)&(13).
4. The evidence received is sufficient cause pursuant to Section 301.452(b)(2),(3)&(10), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 594422, and Vocational Nurse License Number 138401, heretofore issued to MARK HOWARD DUNCAN, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Registered Nurse License Number 594422, and Vocational Nurse License Number 138401, previously issued to MARK HOWARD DUNCAN, to practice nursing in Texas is/are hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

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(s) is/are encumbered by this order the 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.

(1) 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.

(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.texas.gov/disciplinaryaction/stipscourses.html>.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program

provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Board-approved courses may be found at the following Board website address: <http://www.bon.texas.gov/disciplinaryaction/stipscourses.html>.*

(4) RESPONDENT SHALL pay a monetary fine in the amount of five hundred dollars (\$500). RESPONDENT SHALL pay this fine within forty-five (45) days of entry of this Order. 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.

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 PROBATION CONDITIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) OR A VOCATIONAL NURSE (LVN) LICENSE, AS APPROPRIATE, WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the probation conditions on RESPONDENT'S license(s). 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 probation conditions on RESPONDENT'S license(s). 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.

(6) 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.

(7) RESPONDENT SHALL be supervised by a Registered Nurse, if licensed as a Registered Nurse, or by a Licensed Vocational Nurse or a Registered Nurse, if licensed as a Licensed Vocational 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.

(8) 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 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 two (2) year(s) of employment as a nurse.

(9) 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 a pain management and/or chemical dependency evaluation by a Board approved evaluator. The performing evaluator must submit a written report meeting the Board's requirements to the Board's office within thirty (30) days from the Board's request.**

(10) 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. For the remainder of the probation period, random screens shall be performed at least once every three (3) months. 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 probation 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 probation 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 and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

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

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RESPONDENT'S CERTIFICATION

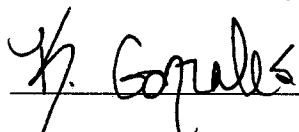
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violation(s) alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and 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(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 18 day of Sept, 2012.


MARK HOWARD DUNCAN, Respondent

Sworn to and subscribed before me this 18th day of September, 2012.

SEAL


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 18th day of September, 2012, by MARK HOWARD DUNCAN, Registered Nurse License Number 594422, and Vocational Nurse License Number 138401, and said Order is final.

Effective this 18th day of October, 2012.

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

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

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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.
Helen C. Thomas
Executive Director of the Board

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

138401

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.

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AGREED BOARD ORDER

Re: Mark Howard Duncan, Exam Applicant

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The probation of said license is subject to the following stipulations, to-wit:

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

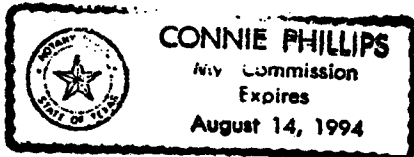
915, 362-4521
Area Code and Telephone Number

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. Brock, R.N.
Marjorie A. Brock, 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 B. 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 Lov
Aggie Lewis
Boris A. Lasker
Deek Lefkowitz

Manager Clark L
Annie Mae Parker Lov
Carm M. Davis
Virginia M. Bauman
Betty Fox McEmore

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

BEFORE THE BOARD OF NURSE EXAMINERS
FOR THE STATE OF TEXAS

In the Matter of Applicant
MARK HOWARD DUNCAN

§
§

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.

CONFIDENTIAL

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.

CONFIDENTIAL

(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.

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(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 cfxx 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

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