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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:

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 of xx 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.

A handwritten signature in cursive script, reading "Louise Waddill", is written over a horizontal line.

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**  
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**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*  
**Korena Schaaf**  
**Administrative Technician II**  
**Monitoring**

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