

BEFORE THE BOARD OF NURSE EXAMINERS  
FOR THE STATE OF TEXAS

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In the Matter of Permanent Certificate       §  
Number 547367 issued to                       §       AGREED ORDER  
KENNETH RAY FRANKS                           §

An investigation by the Board produced evidence indicating that KENNETH RAY FRANKS, hereinafter referred to as Respondent, may have violated Article 4525(b)(8)&(9), Revised Civil Statutes of Texas, as amended.

An informal conference was held on December 5, 1995, at the office of the Board of Nurse Examiners, in accordance with Article 4524C, Revised Civil Statutes of Texas, as amended.

Respondent appeared in person. Respondent was notified of his right to be represented by legal counsel and elected to waive representation by counsel. In attendance were Penny Puryear Burt, RN, J.D., General Counsel; Roy Rawls, Assistant General Counsel; Anthony L. Diggs, Supervising Investigator; and Cynthia McRae Smith, Investigator.

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, notice, hearing, and consented to the entry of this order.
3. Respondent is currently licensed to practice professional nursing in Texas.
4. Respondent graduated from West Texas State University with a BSN in June 1988. Respondent was licensed to practice professional nursing in the State of Texas in September 1988.

5. Respondent began employment at Northwest Texas Hospital, Amarillo, Texas, as a Staff Nurse in Primary Care in June 1988, and remained employed there until May 1990. In June 1990 he began employment at High Plains Baptist Hospital in the SICU until his resignation in October 1994. On November 20, 1995, Respondent was employed with Northwest Texas Healthcare Systems Pavilion Step One as a Staff Nurse and remains employed there currently.
6. On or about November 8, 1991, while employed at High Plains Baptist Hospital, Amarillo, Texas, Respondent engaged in the intemperate use of opiates in that he produced a urine drug screen which tested positive for opiates. Opiates are a controlled substance which impair the ability of the nurse to recognize signs, symptoms and changes in the patient's condition and impair the nurse's ability to make rational, accurate, and appropriate assessments, judgements and decisions regarding patient care, thereby placing the patient in potential danger.
7. Respondent began participation with TPAPN and successfully completed the two (2) year program in January 1994.
8. In August 1994 while employed at High Plains Baptist Hospital, Amarillo, Texas, Respondent admitted to misappropriation of Demerol for his own personal use while off duty. Respondent's conduct resulted in a loss of the medications to High Plains Baptist Hospital.
9. Respondent was employed outside of nursing from August 1994 through November 1995.
10. On June 16, 1995, Respondent underwent a psychiatric evaluation by Allan J. McCorkle, MD which indicated Alcohol and Opioid Dependence in full remission and a previously undiagnosed major depressive disorder. Dr. McCorkle treated Respondent's depression with an antidepressant (Paxil). Respondent has had no recurrence of depressive symptoms.
11. Respondent feels that this undiagnosed and untreated major depressive disorder has contributed to his chemical dependency problem in the past and believes he will remain drug free now that his depression is controlled.

#### CONCLUSIONS OF LAW

1. Pursuant to Article 4525, Revised Civil Statutes of Texas, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.

3. The evidence received was sufficient to prove violation(s) of Article 4525(b)(8)&(9), TEX. REV. CIV. STAT. ANN., and 22 TEX. ADMIN. CODE §217.13(15).
4. The activities of the Respondent constituted sufficient cause pursuant to Article 4525(b), TEX. REV. CIV. STAT. ANN., to take disciplinary action against license number 547367, heretofore issued to KENNETH RAY FRANKS.

#### AGREED SANCTIONS

IT IS THEREFORE AGREED, subject to ratification by the Board of Nurse Examiners, that RESPONDENT SHALL receive the sanction of reprimand with stipulations, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Art. 4513 et. seq., the Rules and Regulations Relating to Professional Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 et. seq. and this order.

IT IS FURTHER AGREED that RESPONDENT SHALL comply with the following stipulations for five (5) years:

(1) RESPONDENT SHALL deliver the wallet-size license issued to KENNETH RAY FRANKS, to the office of the Board of Nurse Examiners within ten (10) days of the date of this order for appropriate notation.

**THE FOLLOWING TERMS OF THIS ORDER MAY ONLY BE SERVED WHILE RESPONDENT IS EMPLOYED AS A REGISTERED NURSE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL PRACTICE SETTING.**

(2) RESPONDENT SHALL notify each present employer in professional nursing of this order of the Board and the stipulations on RESPONDENT's license. RESPONDENT

SHALL present a copy of this order to each present employer within five (5) days of notification of this order. RESPONDENT SHALL notify all potential employers in professional nursing of this order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a copy of this order to each potential employer prior to employment.

(3) RESPONDENT SHALL CAUSE each present employer in professional nursing to submit the Notification of Employment form to the Board's office within ten (10) days of notification of this order. RESPONDENT SHALL CAUSE each potential employer to submit the Notification of Employment form to the Board's office within five (5) days of employment as a professional nurse.

(4) RESPONDENT SHALL be supervised by a registered nurse who is on the premises. The supervising RN 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. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency or home health agency. RESPONDENT SHALL NOT be self employed or contract for services. Multiple employers are prohibited.

(5) RESPONDENT SHALL CAUSE each employer to submit, on forms provided by the Board, periodic reports as to RESPONDENT's capability to practice professional nursing. These reports shall be completed by the registered nurse who supervises the RESPONDENT. These reports shall be submitted to the office of the Board at the end of each three (3) months for five (5) years of employment as a professional nurse.

(6) RESPONDENT 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.

(7) RESPONDENT 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, telemetry, recovery room, and labor and delivery units.

(8) RESPONDENT SHALL NOT administer or have any contact with controlled substances, Nubain, Stadol, Dalgan or other synthetic opiates for one (1) year of employment as a professional nurse.

(9) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. 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.

(10) RESPONDENT SHALL submit to random periodic screens for controlled substances and alcohol.

For the first three (3) month period, random screens shall be performed at least once per week.

For the second three (3) month period, random screens shall be performed at least once per month.

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

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cocaine Metabolites	Opiates
Ethanol	Phencyclidine
Hydrocodone	Propoxyphene
Marijuana Metabolites	

A Board representative may appear at the Respondent's place of employment at any time during the stipulation period and collect a specimen for screening. That specimen will be screened for all of the above substances as well as Butorphanol Tartrate (Stadol), Dezocine (Dalgan), and Nalbuphine Hydrochloride (Nubain).

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.

RESPONDENT 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 Nubain, Stadol, Dalgan or other synthetic opiates, for which the RESPONDENT 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 (512) 305-6834 and reporting the positive results to the Monitoring Technician.

(11) RESPONDENT SHALL participate in therapy with a "professional counselor" possessing credentials approved by the Board. RESPONDENT SHALL CAUSE the therapist to submit written reports, on forms provided by the Board, as to the RESPONDENT's progress in therapy, rehabilitation and capability to safely practice professional nursing. The report must indicate whether or not the RESPONDENT's emotional stability is sufficient to provide direct

patient care safely. Such reports are to be furnished each and every month for five (5) years, or until RESPONDENT is dismissed from therapy.

(12) RESPONDENT SHALL attend at least two (2) support group meetings each week, one of which shall be for substance abuse; and RESPONDENT SHALL provide acceptable evidence of attendance. Acceptable evidence shall consist of a written record of at least; the date of each meeting, the name of each group attended, and the signature and printed name of the chairperson of each group attended by RESPONDENT. RESPONDENT 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.

IT IS FURTHER AGREED, that upon full compliance with the terms of this order, RESPONDENT SHALL be issued an unencumbered license to practice professional nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

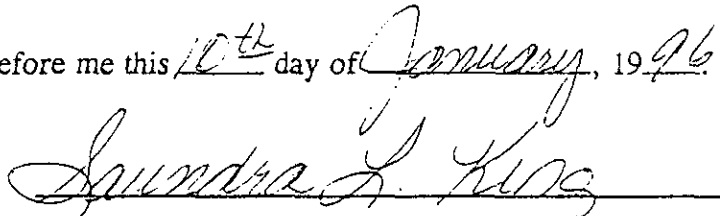
I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this order. I neither admit nor deny the violation(s) alleged. By my signature on this order, I agree to the Findings of Fact, Conclusions of Law, Agreed Sanctions, and any stipulation(s) of this order to avoid further disciplinary action in this matter. I consent to the issuance of the Agreed Sanctions. I waive judicial review of this order. I understand that this order is subject to ratification by the Board. When the order is ratified, the terms of this order become effective, and a copy will be mailed to me.

Signed this 10 day of January, 1996.

  
KENNETH RAY FRANKS

Sworn to and subscribed before me this 10<sup>th</sup> day of January, 1996.




  
Notary Public 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 Agreed Order that was signed on the  
10th day of January, 1996, by KENNETH RAY FRANKS, license number  
547367, and said order is final.

Effective this 13th day of February, 1996.



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



# BOARD OF NURSE EXAMINERS FOR THE STATE OF TEXAS

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POST OFFICE BOX 430  
AUSTIN, TEXAS 78767-0430

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AUSTIN, TEXAS 78701 • 512/305-7400 • Fax: 512/305-7401

KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR

February 23, 2001

Kenneth Ray Franks, RN  
5901 Devon  
Amarillo, TX 79109

Dear Mr. Franks:

This office is in receipt of your final Support Group Attendance Verification. 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 February 13, 1996, have been met.

Please return your current wallet-sized license along with a copy of this letter. We will then issue you a license without the stipulated designation.

If you have any questions, please contact me at (512) 305-6838.

Sincerely,

A handwritten signature in cursive script that reads "Rachel D. Burkett".

Rachel D. Burkett  
Monitoring

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