IN THE MATTER OF PROFESSIONAL NURSE LICENSE NO. RN093939
ISSUED TO:

DAWN MARIE FALK,

Respondent.

On March 20, 2006, the Arizona State Board of Nursing ("Board") considered the State’s Motion to Deem Allegations Admitted and Respondent’s Response to the Motion, if any, at the Arizona State Board of Nursing Conference Room, 1651 E. Morten Avenue, Suite 210, Phoenix, Arizona. Ann Olson, Assistant Attorney General, appeared on behalf of the State. Respondent was not present and was not represented by counsel.

On March 20, 2006, the Board granted the State’s Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-1664(I) and the Complaint and Notice of Hearing No. 05A-0411071-NUR filed in this matter, the Board adopts the following Findings of Fact and Conclusions of Law, and REVOKES Respondent’s license.

FINDINGS OF FACT

1. The Arizona State Board of Nursing ("Board") has the authority to regulate and control the practice of nursing in the State of Arizona, pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664. The Board also has the authority to impose disciplinary sanctions against the holders of nursing licenses/nursing assistant certificates for violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -1667.
2. Dawn Marie Falk ("Respondent") holds Board issued professional nurse license number RN093939, in the State of Arizona.

3. On or about November 19, 2004, the Board received a letter from Ronald Fish, Respondent’s former husband, outlining Respondent’s behavior towards him, a copy of an Order of Protection dated November 15, 2004, a letter dated November 12, 2004 from Mary Dawson, Administrative Supervisor, and five Phoenix, Arizona Police Department reports.

4. On or about January 14, 2003, Respondent failed to control the speed of her car and collided into the rear of a car that was stopped, causing a chain reaction involving three other vehicles. When the police officer arrived and talked to Respondent, the officer noted the strong odor of alcohol on Respondent’s breath. The officer asked Respondent to turn off the engine of her car, but she refused. Respondent told the officer she was going home and placed her hand on the gearshift. The officer opened the door and pulled Respondent from the car. Respondent then lay down on the street and refused to get up. Respondent’s Breathalyzer test results were 0.285 and .291.

5. On or about March 13, 2003, Respondent’s driver’s license was suspended for 30 days and then restricted for 60 days. On or about November 3, 2004, in Phoenix Municipal Court, Case No. 20039028181, Respondent was found guilty of DUI by a jury trial and fined $905, ordered to spend 90 days in jail with 60 days suspended, ordered to complete Substance Abuse Screening (SASS) and placed on probation until December 27, 2009.

6. On or about October 8, 2003, Respondent was arrested for driving under the influence with a Breathalyzer test result of .250. On or about July 20, 2004, Respondent pled no contest in Phoenix Municipal Court, Case No. 20039039854, to the charges of DUI and DUI with a BAC of 0.15 or greater. Respondent was ordered to: pay a fine of $1140, spend 30 days in jail with 17 days suspended, complete SASS and was placed on probation.
7. From on or about February 1998 to on or about December 2004, Respondent was employed by Health Temps in Phoenix, Arizona.

8. Attached to a Registry Program Performance Evaluation from Phoenix Memorial Hospital dated February 26, 2003, Cathy Staford, RN, wrote that a patient requested Respondent not care for him as she did not suction him when he was on a ventilator and his heart rate was between 160 and 180 beats per minute. In the same memo, Staford wrote that another nurse notified her that when she assumed the care of a patient from Respondent and found the Esmolol and insulin intravenous drips completely dry, and the patient’s blood pressure was 260/140. The patient and family requested that Respondent provide no further care. The patient also said that Respondent treated her roughly. Another undated letter written by Kent Silvas indicated that Respondent, while caring for a 1:1 patient, only assessed the patient three times and did not keep the patient sedated as ordered.

9. On a Registry Program Performance Evaluation from Scottsdale Healthcare, Shea dated August 1, 2003, Respondent was rated as Unsatisfactory in “Administers medications and treatment as ordered”. A patient complained that Respondent failed to adequately medicate him post-operatively.

10. On or about December 29, 2004, Board staff interviewed Respondent in the Board office. During the interview, Respondent admitted being an alcoholic for eleven years. Respondent told Board staff that she attended an outpatient chemical dependency treatment program in Rockford, Illinois. Board staff requested Respondent to complete a Recovery Questionnaire by January 31, 2005, obtain a chemical dependency evaluation by a Board-approved addictionist by February 15, 2005, and provide proof of attendance at the outpatient chemical dependency treatment program in Rockford, Illinois. Respondent failed to complete the Recovery Questionnaire within the timeframe, failed to obtain a chemical dependency evaluation by a Board-approved addictionist, and failed to submit proof of attendance at the outpatient chemical dependency treatment program in Rockford, Illinois.
11. During the interview on December 29, 2004, Respondent stated that her Arizona driver’s license was suspended and friends were driving her to her appointments and to work. Upon leaving the Board office, Respondent was observed entering the driver’s side of a sport utility vehicle and driving the car from the Board office parking lot.

12. On or about March 17, 2005, the Board reviewed the Investigative Report and voted to issue Notice of Charges. On March 25, 2005, the Notice of Charges was mailed to Respondent and on April 11, 2005, Respondent submitted a written response to the Notice of Charges and included the Recovery Questionnaire that was due in the Board office by January 31, 2005. Respondent failed to sign the Recovery Questionnaire and have it notarized.

13. On the Recovery Questionnaire, the first question under “Recovery History” asks, “Have you completed a drug/alcohol rehabilitation program?” Respondent failed to answer the question.

14. On the Recovery Questionnaire, the second question under “Recovery History” asks, “Have you completed an aftercare program?” Respondent marked “no” to this question.

15. On page 6 of the Recovery Questionnaire, Respondent failed to answer the question asking if she has ever been evaluated by an addictionist, and answered “no” to having been evaluated by a relapse prevention counselor.

16. On page 6 of the Recovery Questionnaire, Respondent answered “yes” to the question asking, “Since you have had your license, have you had any counseling for your substance abuse problem? If yes, provide documentation. Describe your recovery program,” Respondent stated the following: “I attend AA meetings approx 4 times a week. I have talked with two people 1:1 and have their phone numbers and they have mine. I have a good friend who calls me daily to see how I’m doing
and if I need anything. Either he or his girlfriend take me shopping, to MD visits, etc.” Respondent failed to provide documentation of any counseling related to chemical dependency.

17. On page 13 of the Recovery Questionnaire, received on April 11, 2005, Respondent stated that she had been sober for 90 days.

CONCLUSIONS OF LAW

1. The conduct and circumstances alleged in the Findings of Fact constitute violations of A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(16), (b), (d), (h) and (j) and A.A.C. R4-19-403(1), (2), (12), (24a) and (25).

2. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16) (b), (committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission), and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

3. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16) (d), (any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public), and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

4. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16) (h), (committing an act that deceives, defrauds or harms the public), and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

5. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16) (j), (violating a rule that is adopted by the
board pursuant to this chapter, specifically, A.A.C. R4-19-403 (1), [a pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice], and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

6. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16) (j), (violating a rule that is adopted by the board pursuant to this chapter, specifically, A.A.C. R4-19-403 (2), [intentionally or negligently causing physical or emotional injury], and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

7. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16)(j), (violating a rule that is adopted by the board pursuant to this chapter, specifically, A.A.C. R4-19-403 (12), [a pattern of use or being under the influence of alcoholic beverages, medications, or other substances to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location], and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

8. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16)(j), (violating a rule that is adopted by the Board by: (a). not furnishing in writing a full and complete explanation covering the matter reported pursuant to A.R.S. § 32-1664], and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

9. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-1601(16)(j), (violating a rule that is adopted by the
board pursuant to this chapter, specifically, A.A.C. R4-19-403 (25), [practicing in any other manner which gives the Board reasonable cause to believe that the health of a patient or the public may be harmed], and is grounds for disciplinary action pursuant to A.R.S. § 32-1663 and § 32-1664.

10. The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to suspend or revoke the license of Dawn Marie Falk to practice as a professional nurse in the State of Arizona.

ORDER

In view of the above Findings of Fact and Conclusions of Law, the Board issues the following Order:

Pursuant to A.R.S. § 32-1664(N), the Board REVOKES professional nurse license number RN093939 issued to Dawn Marie Falk.

Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing or review within 30 days after service of this decision with the Arizona State Board of Nursing. The motion for rehearing or review shall be made to the attention of Susan Barber, R.N., M.S.N., Arizona State Board of Nursing, 1651 E. Morten, Ste. 210, Phoenix AZ 85020. For answers to questions regarding a rehearing, contact Susan Barber at (602) 889-5161. Pursuant to A.R.S. § 41-1092.09(B), if Respondent fails to file a motion for rehearing or review within 30 days after service of this decision, Respondent shall be prohibited from seeking judicial review of this decision.

This decision is effective upon expiration of the time for filing a request for rehearing or review, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.
Respondent may apply for reinstatement of the said license pursuant to A.A.C. R4-19-404 after a period of five years.

DATED this 20th day of March 2006.

ARIZONA STATE BOARD OF NURSING

SEAL

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

COPIES mailed this 24th day of March 2006, by Certified Mail No. 7001 1940 0003 4510 1404 and First Class Mail to:

Dawn Marie Falk
2136 W Sharon Ave
Phoenix AZ 85007

COPIES of the foregoing mailed this 24th day of March 2006, to:

Ann Olson
Assistant Attorney General
1275 W. Washington, LES Section
Phoenix, AZ 85007

By: Vicky Driver