

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 165975  
ISSUED TO  
DAVID LYN RAKE

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BEFORE THE ELIGIBILITY  
AND DISCIPLINARY  
COMMITTEE  
OF THE TEXAS  
BOARD OF NURSING



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.  
*Patricia A. Moran*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: David Lyn Rake  
454 Moran  
Highland Village, TX 75077-6771

During open meeting held in Austin, Texas, on March 8, 2011, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case, based on the failure of the Respondent to appear as required by 22 TEX. ADMIN. CODE Ch. 213.

The Committee of the Texas Board of Nursing finds that notice of the facts or conduct alleged to warrant disciplinary action has been provided to Respondent in accordance with Texas Government Code § 2001.054(c) and Respondent has been given an opportunity to show compliance with all the requirements of the Nursing Practice Act, Chapter 301 of the Texas Occupations Code, for retention of Respondent's license to practice vocational nursing in the State of Texas.

The Committee finds that the Formal Charges were properly initiated and filed in accordance with section 301.458, Texas Occupations Code.

The Committee finds that after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent in this matter, Respondent has failed to appear in accordance with 22 TEX. ADMIN. CODE Ch. 213.

The Committee finds that the Board is authorized to enter a default order pursuant to Texas Government Code § 2001.056.

The Eligibility and Disciplinary Committee, after review and due consideration, adopts the

proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity to file a motion for rehearing [22 TEX. ADMIN.CODE § 213.16(j)]. All parties have a right to judicial review of this Order.

All proposed findings of fact and conclusions of law filed by any party not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that Permanent Certificate Number 165975, previously issued to DAVID LYN RAKE, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice vocational nursing in the State of Texas.

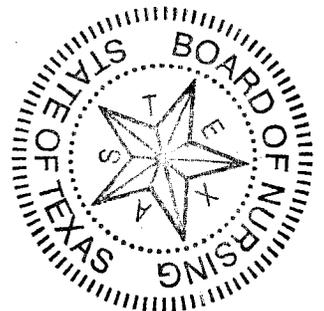
Entered this 8th day of March, 2011.

TEXAS BOARD OF NURSING

BY:



KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD



Attachment: Formal Charge filed January 31, 2011.

Re: Permanent Certificate Number 165975  
Issued to DAVID LYN RAKE  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 11<sup>th</sup> day of March, 20 11, a true and correct copy of the foregoing DEFAULT ORDER was served by placement in the U.S. Mail via certified mail, and addressed to the following person(s):

David Lyn Rake  
454 Moran  
Highland Village, TX 75077-6771

BY:



\_\_\_\_\_  
KATHERINE A. THOMAS, MN, RN  
EXECUTIVE DIRECTOR ON BEHALF OF SAID BOARD

In the Matter of Permanent License § BEFORE THE TEXAS  
Number 165975, Issued to §  
DAVID LYN RAKE, Respondent § BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, DAVID LYN RAKE, is a Licensed Vocational Nurse holding license number 165975, which is in delinquent status at the time of this pleading.

Written notice of the facts and conduct alleged to warrant adverse licensure action was sent to Respondent at Respondent's address of record and Respondent was given opportunity to show compliance with all requirements of the law for retention of the license prior to commencement of this proceeding.

### CHARGE I.

On or about September 7, 2000, Respondent's license to practice nursing was Indefinitely Suspended by the State of Washington Department of Health Nursing Care Quality Assurance Commission, Olympia, Washington. A copy of the Findings of Fact, Conclusions of Law, and Final Order of Default dated September 7, 2000, is attached and incorporated, by reference, as part of this pleading.

The above action constitutes grounds for disciplinary action in accordance with Tex. Occ. Code Ann. §302.402(a)(7) {eff. 9/1/99}.

NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of up to revocation of Respondent's license to practice nursing in the State of Texas pursuant to the Nursing Practice Act, Chapter 301, Texas Occupations Code and the Board's rules, 22 Tex. Admin. Code §§ 213.27 - 213.33. Additionally, staff will seek to impose on Respondent the administrative costs of the proceeding pursuant to Section 301.461, Texas Occupations Code. The cost of proceedings shall include, but is not limited to, the cost paid by the Board to the State Office of Administrative Hearings and the Office of the Attorney General or other Board counsel for legal and investigative services, the cost of a court reporter and witnesses, reproduction of records, Board staff time, travel, and expenses. These shall be in an amount of at least one thousand two hundred dollars (\$1200.00).

NOTICE IS GIVEN that all statutes and rules cited in these Charges are incorporated as part of this pleading and can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

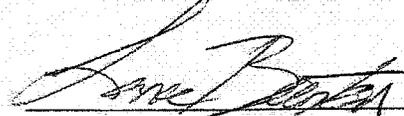
NOTICE IS GIVEN that to the extent applicable, based on the Formal Charges, the Board will rely on Adopted Disciplinary Sanction Policies for Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder, for Lying and Falsification, and for Fraud, Theft & Deception, which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

NOTICE IS GIVEN that, based on the Formal Charges, the Board will rely on the Disciplinary Matrix, which can be found at [www.bon.state.tx.us/disciplinaryaction/discp-matrix.html](http://www.bon.state.tx.us/disciplinaryaction/discp-matrix.html).

NOTICE IS ALSO GIVEN that Respondent's past disciplinary history, as set out below and described in the Order which is attached and incorporated by reference as part of these charges, will be offered in support of the disposition recommended by staff: Final Order of Default dated September 7, 2000.

Filed this 31<sup>st</sup> day of January, 2011.

TEXAS BOARD OF NURSING



James W. Johnston, General Counsel  
Board Certified - Administrative Law  
Texas Board of Legal Specialization  
State Bar No. 10838300

Jena Abel, Assistant General Counsel  
State Bar No. 24036103

Lance Robert Brenton, Assistant General Counsel  
State Bar No. 24066924

Robert Kyle Hensley, Assistant General Counsel  
State Bar No. 50511847

Nikki Hopkins, Assistant General Counsel  
State Bar No. 24052269

John F. Legris, Assistant General Counsel  
State Bar No. 00785533

TEXAS BOARD OF NURSING  
333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701  
P: (512) 305-6824  
F: (512) 305-8101 or (512)305-7401

Attachments: Final Order of Default of the State of Washington Department of Health Nursing Care Quality Assurance Commission dated September 7, 2000.

D/2010.12.28

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
NURSING CARE QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice )  
Licensed Practical Nursing of: ) Docket No. 00-02-A-1064LP  
)  
DAVID RAKE, PN ) FINDINGS OF FACT, CONCLUSIONS  
Credential No. LP00048529, ) OF LAW AND FINAL ORDER OF  
) DEFAULT (Failure to Respond)  
Respondent. )  
\_\_\_\_\_ )

This matter comes before the Commission for final order of default. The Commission members deciding the case were: Frank Maziariski, RN, ARNP, Joanna Boatman, RN, Becky Kerben, LPN and Era Kinlow, Public Member. Based on the record, the Commission now issues the following:

**Section 1: FINDINGS OF FACT**

1.1 Respondent was issued a license to practice as a licensed practical nurse by the state of Washington in September 1998. The Respondent's license expired on August 21, 1999.

1.2 A Statement of Charges alleging unprofessional conduct under RCW 18.130.180; a Notice of Opportunity to Defend; and Answer to Statement of Charges form were served by mail on the Respondent on June 2, 2000. The Respondent's Answer to Statement of Charges and request for hearing were to be filed within 20 days of service.

1.3 To date, the Adjudicative Clerk Office has not received an answer to the Statement of Charges. A Notice of Failure to Respond was issued on June 26, 2000. (See exhibit 2)

1.4 The Commission has no reason to believe Respondent is in active military service.

FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND FINAL ORDER ON DEFAULT  
(Failure to Respond) - PAGE 1  
Docket No. 00-02-A-1064LP

I certify that this is a true and correct copy of the  
Document on file with the ~~State of Washington~~  
Department of Health, Adjudicative Clerk Office

9 day of September 2010

*Debra M. Kerben*  
\_\_\_\_\_  
Signature, Authorized Representative

1.5 The Department has filed the Declaration of Debi Young, Program Representative, with attached exhibits. (see exhibit 3)

1.6 In each of the allegations below, Respondent was working as a licensed practical nurse at Group Health Cooperative Eastside Hospital in Redmond, Washington.

1.7 From approximately May 8, 1999 through May 10, 1999, the Respondent diverted Demerol, a controlled substance, from his place of employment. During this time period, the Respondent made false entries in the medication records that he administered Demerol to Patient A when, in fact, he had diverted Patient A's Demerol.

1.8 On or about August 30, 1999, the Department of Health sent a letter to Respondent's address of record, requesting a written statement in response to the above listed allegations. To date, the Respondent has not responded.

## Section 2: CONCLUSIONS OF LAW

2.1 Respondent was issued a license to practice as a licensed practical nurse by the state of Washington, and is subject to the provisions of chapters 18.79 (formerly chapter 18.88) and 18.130 RCW and chapter 246-839 WAC.

2.2 Respondent did not file a response to the Statement of Charges within the time allowed by WAC 246-11-270(1)(a)(i) or WAC 246-11-270(3). Pursuant to RCW 18.130.090(1) and RCW 34.05.440, Respondent is in default and the Commission may issue a dispositive order based on the evidence presented to it.

2.3 Based upon Findings of Fact 1.7 and 1.8, Respondent has engaged in unprofessional conduct in violation of RCW 18.130.180 (1), (6), (7), (8)(b), (13); WAC 246-840-710(1)(c), (d), (4)(a). The Commission determines that sufficient grounds exist to take disciplinary action against Respondent's license to practice as a licensed practical nurse in the state of Washington, pursuant to RCW 18.130.160.

### Section 3: ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Commission hereby makes the following ORDER:

3.1 The license of the Respondent to practice as a licensed practical nurse in the state of Washington is **INDEFINITELY SUSPENDED**.

3.2 Respondent shall immediately return all licenses to the Commission within ten (10) days of the service of this Order.

3.3 Within 10 days of the effective date of this Order, Respondent shall thoroughly complete the attached Healthcare Integrity and Protection Data Bank Reporting Form (Section 1128 of the Social Security Act) and return it to the disciplining authority.

3.4 Respondent may submit a written petition for modification of this Order or for reinstatement of his license when he can demonstrate to the Commission general fitness and competency to practice as a licensed practical nurse in the state of Washington. At the time the Commission considers the petition for modification or reinstatement the Respondent may be required to appear personally before the Commission and the Commission may impose additional conditions after reviewing Respondent's compliance with this Order.

#### Section 4: NOTICE TO PARTIES

As provided in RCW 34.05.461(3), 34.05.470, and WAC 246-11-580, either party may file a petition for reconsideration. The petition must be filed with the Adjudicative Clerk Office, 1107 Eastside Street, PO Box 47879, Olympia, WA 98504-7879, within ten (10) days of service of this Order. The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration shall not stay the effectiveness of this Order. The petition for reconsideration is deemed to have been denied twenty (20) days after the petition is filed if the Commission has not acted on the petition or served written notice of the date by which action will be taken on the petition.

"Filing" means actual receipt of the document by the Adjudicative Clerk Office, RCW 34.05.010(6) and WAC 246-11-080. This Order was "served" upon you on the day it was deposited in the United States mail, RCW 34.05.010(18).

Proceedings for judicial review may be instituted by filing a petition in the Superior Court in accord with the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review must be filed within thirty (30) days after service of this Order, as provided by RCW 34.05.542.

DATED THIS 7 DAY OF Sept., 2000.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
NURSING CARE QUALITY ASSURANCE  
COMMISSION

Frank T. Wojcinski  
Commission chair

Presented by:

Debra Young  
Debra Young, Legal Assistant

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:  
99-05-0018PN

FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND FINAL ORDER ON DEFAULT  
(Failure to Respond) - PAGE 5  
Docket No.00-02-A-1064LP

REDACTED