IN THE MATTER OF	§	BEFORE THE ELIGIBILITY
	§	
PERMANENT CERTIFICATE	§	AND DISCIPLINARY
	§	
NUMBER 146638	§	COMMITTEE
	§	
ISSUED TO	§	OF THE TEXAS
	§	
STEPHEN AARON KERR	§	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.

Executive Director of the Board

ORDER OF THE BOARD

TO: STEPHEN AARON KERR
12038 Wilderness Trail
San Antonio, Texas 78233

During open meeting held in Austin, Texas, on February 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

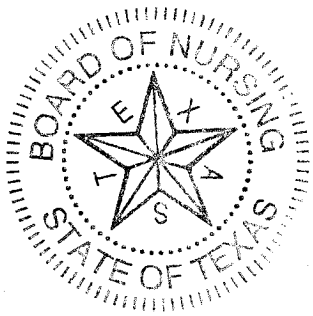
proposed findings of fact and conclusions of law as stated in the Formal Charges which are attached hereto and incorporated by reference for all purposes and the Staff's recommended sanction of revocation by default. This Order will be properly served on all parties and all parties will be given an opportunity 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 146638, previously issued to STEPHEN AARON KERR, 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 February, 2011.



TEXAS BOARD OF NURSING

BY: _____

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

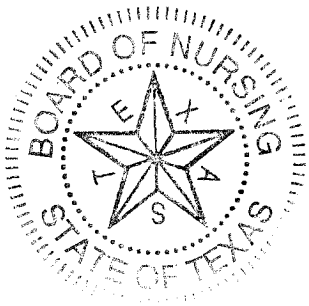
Attachment: Formal Charge filed December 14, 2010.

Re: Permanent Certificate Number 146638
Issued to STEPHEN AARON KERR
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2011, 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):

STEPHEN AARON KERR
12038 Wilderness Trail
San Antonio, Texas 78233



BY: Katherine A. Thomas

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

In the Matter of Permanent License Number 146638, Issued to STEPHEN AARON KERR, Respondent	§ § §	**BEFORE THE TEXAS BOARD OF NURSING**

FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, STEPHEN AARON KERR, is a Vocational Nurse holding license number 146638, which is in current 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 July 17, 2009, through August 4, 2009, while employed with LifeCare Hospitals of San Antonio, San Antonio, Texas, Respondent withdrew Fentanyl and Haloperidol Lactate (Haldol) from the Medication Dispensing System for Patient #502668, but failed to document, or accurately document the administration, including signs, symptoms and responses to the medication in the patient's Medication Administration Records and/or nurse's notes as follows:

Patient	Date	Time Pulled	Medication	MAR	Nurses Notes/ Flow Sheets	Order
502668	07/17/09	11:10P	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/17/09	11:38P	Haloperidol Lactate 5mg Inj (1)	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/18/09	12:45A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	2:33A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	3:57A	Haloperidol Lactate 5mg Inj (1)	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/18/09	3:57A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	6:14A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	7:19A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for

						breakthrough pain
502668	07/18/09	7:21A	Haloperidol Lactate 5mg Inj (1)	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/18/09	7:50A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	9:18P	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	10:18P	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	11:04P	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	11:04P	Haloperidol Lactate 5mg Inj (1)	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/19/09	12:28A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	1:20A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	4:02A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	5:13A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	6:17A	Haloperidol Lactate 5mg Inj (1)	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/19/09	6:20A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	7:00A	Fentanyl Citrate 50 MCG Inj (1)	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain

Respondent's conduct was likely to injure the patient in that subsequent care givers would rely on his documentation to further medicate the patient which could result in an overdose.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A),(B)&(D), and 22 Tex. Admin. Code§217.12(1)(A)&(B) and (4).

CHARGE II.

On or about July 17, 2009, through August 4, 2009, while employed with LifeCare Hospitals of San Antonio, San Antonio, Texas, Respondent withdrew Fentanyl and Haldol from the Medication Dispensing System for Patient #502668, but failed to follow the facility's policy and procedure for wastage of any of the unused portions of the medications as follows:

Patient	Date	Time Pulled	Medication	MAR	Nurses Notes/ Flow Sheets	Waste	Order
502668	07/17/09	11:10P	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/17/09	11:38P	Haloperidol Lactate 5mg Inj (1)	None	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/18/09	12:45A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	2:33A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	3:57A	Haloperidol Lactate 5mg Inj (1)	None	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/18/09	3:57A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	6:14A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	7:19A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	7:21A	Haloperidol Lactate 5mg Inj (1)	None	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/18/09	7:50A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	9:18P	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	10:18P	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/18/09	11:04P	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain

502668	07/18/09	11:04P	Haloperidol Lactate 5mg Inj (1)	None	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/19/09	12:28A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	1:20A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	4:02A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	5:13A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	6:17A	Haloperidol Lactate 5mg Inj (1)	None	None	None	Haloperidol Lactate Inj 2mg IV 0.4 ML x 5 mg/ml PRN every two hours PRN Agitation
502668	07/19/09	6:20A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain
502668	07/19/09	7:00A	Fentanyl Citrate 50 MCG Inj (1)	None	None	None	Fentanyl Citrate Inj 100 MCG IV 2ml x 50 mgc/ml PRN every hour for breakthrough pain

Respondent's conduct was likely to deceive the hospital pharmacy and placed them in violation of Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10)&(13), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.11(1)(A)&(B), and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(4),(10)(C)&(11)(B).

CHARGE III.

On or about July 17, 2009, through August 4, 2009, while employed with LifeCare Hospitals of San Antonio, San Antonio, Texas, Respondent misappropriated Fentanyl and Haldol from the facility or patients thereof, or failed to take precautions to prevent such misappropriation. Respondent's conduct was likely to defraud the facility and patients of the cost of the medications.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(10), Texas Occupations Code and is a violation of 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(6)(G)&(8).

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 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.

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.

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.

Filed this 14th day of December, 20 10.

TEXAS BOARD OF NURSING

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