

IN THE MATTER OF  
PERMANENT CERTIFICATE  
NUMBER 164942  
ISSUED TO  
ROBERT EDWARD GRAFE

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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. Roman*  
Executive Director of the Board

**ORDER OF THE BOARD**

TO: Robert Edward Grafe  
1514 Shasta  
Sulphur, LA 70663

During open meeting held in Austin, Texas, on September 9, 2008, the Eligibility and Disciplinary Committee (hereinafter "Committee") heard the above-styled case. This case was heard, and 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 § 213.2(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 164942, previously issued to ROBERT EDWARD GRAFE, to practice vocational nursing in the State of Texas be, and the same is hereby, REVOKED.

IT IS FURTHER ORDERED that Permanent Certificate Number 164942, previously issued to ROBERT EDWARD GRAFE, upon receipt of this Order, be immediately delivered to the office of the Texas Board of Nursing.

IT IS FURTHER ORDERED that this Order SHALL be applicable to Respondent's multi-state privilege, if any, to practice vocational nursing in the State of Texas.

Entered this 9<sup>th</sup> day of September, 2008.

TEXAS BOARD OF NURSING

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

In the Matter of Permanent License  
Number 164942, Issued to  
ROBERT EDWARD GRAFE, Respondent

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BEFORE THE TEXAS  
BOARD OF NURSING

### FORMAL CHARGES

This is a disciplinary proceeding under Section 301.452(b), Texas Occupations Code. Respondent, ROBERT EDWARD GRAFE, is a Vocational Nurse holding license number 164942, 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 September 13, 2006 and September 14, 2006, while employed with Memorial Hermann Healthcare System, Houston, Texas, Respondent withdrew Hydromorphone and Oxycodone from the medication dispensing system (Pyxis) for patients, but failed to document, or accurately document the administration of the medications in the patients' Medication Administration Records (MARs), as follows:

Date/Time	Patient Record No.	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record
9/13/06 @ 1856	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAINa	No documentation
9/13/06 @ 1918	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
9/13/06 @ 2010	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
9/13/06 @ 2133	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
9/13/06 @ 2257	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
9/13/06 @ 2335	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
09/14/06 @ 0116	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
09/14/06 @ 0255	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
09/14/06 @ 0410	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
09/14/06 @ 0546	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromprhone IV Q2 H PRN/PAIN	No documentation
9/13/06 @ 2009	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation

9/13/06 @ 2256	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation
9/14/06 @ 0216	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation
9/14/06 @ 0546	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation

Respondent's conduct was likely to injure the patients in that subsequent care givers would rely on his documentation to further medicate the patients which could result in an overdose and is 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)(B)(D) and §217.12(1)(A),(4) &(11)(B).

### CHARGE II.

On or about September 13, 2006 and September 14, 2006, while employed with Memorial Hermann Healthcare System, Houston, Texas, Respondent withdrew Hydromorphone and Oxycodone from the medication dispensing system (Pyxis) for patients, but failed to follow the facility's policy and procedure for the wastage of unused portions of the medications, as follows:

Date/Time	Patient Record No.	Medication Dispensing System (Pyxis)	Physician's Order	Medication Administration Record	Waste
9/13/06 @ 1856	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
9/13/06 @ 1918	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
9/13/06 @ 2010	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
9/13/06 @ 2133	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
9/13/06 @ 2257	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
9/13/06 @ 2335	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
09/14/06 @ 0116	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
09/14/06 @ 0255	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
09/14/06 @ 0410	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
09/14/06 @ 0546	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN	No documentation	None
9/13/06 @ 2009	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation	None

9/13/06 @ 2256	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation	None
9/14/06 @ 0216	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation	None
9/14/06 @ 0546	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN	No documentation	None

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) and §217.12(10)(C) and (11)(B).

### CHARGE III.

On or about September 13, 2006 and September 14, 2006, while employed with Memorial Hermann Healthcare System, Houston, Texas, Respondent withdrew Hydromorphone and Oxycodone from the medication dispensing system (Pyxis) for patients in excess frequency and dosage of the physician's orders, as follows:

Date/Time	Patient Record No.	Medication Dispensing System (Pyxis)	Physician's Order
9/13/06 @ 1856	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
9/13/06 @ 1918	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
9/13/06 @ 2010	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
9/13/06 @ 2133	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
9/13/06 @ 2257	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
9/13/06 @ 2335	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
09/14/06 @ 0116	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
09/14/06 @ 0255	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
09/14/06 @ 0410	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
09/14/06 @ 0546	376490626249	(1) Hydromorphone 2 mg inj	1mg/.05 ml Hydromorphone IV Q2 H PRN/PAIN
9/13/06 @ 2009	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN
9/13/06 @ 2256	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN

9/14/06 @ 0216	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN
9/14/06 @ 0546	376490626249	(2) Oxycodone 5mg tab	10 mg Oxycodone PO Q4H PRN/PAIN

Respondent's conduct was likely to injure the patient in that the administration of Hydromorphone and Oxycodone in excess frequency and/or dosage of the physician's order could result in the patient suffering from adverse reactions.

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)&(C) and §217.12(4).

**CHARGE IV.**

On or about September 13, 2006 and September 14, 2006, while employed with Memorial Hermann Healthcare System, Houston, Texas, Respondent misappropriated Hydromorphone and Oxycodone belonging to the facility and patients thereof, or failed to take precautions to prevent the 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 22 TEX. ADMIN. CODE §217.12(6)(G),(8)&(10)(E).

**CHARGE V.**

On or about September 13, 2006 and September 14, 2006, while employed with Memorial Hermann Healthcare System, Houston, Texas, Respondent engaged in the intemperate use of Hydromorphone and Oxycodone in that Respondent admitted to relapsing and the intemperate use of Hydromorphone and Oxycodone. Possession of Hydromorphone and Oxycodone, without a lawful prescription, is prohibited by Chapter 481 of the Texas Health & Safety Code (Controlled Substances Act). The use of Hydromorphone and Oxycodone by a Nurse, while subject to call or duty, could impair the nurse's ability to recognize subtle signs, symptoms or changes in the patient's condition, and could impair the nurse's ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patient in potential danger.

The above action constitutes grounds for disciplinary action in accordance with Section 301.452(b)(9)&(10), Texas Occupations Code, and is a violation of 22 TEX. ADMIN. CODE §217.12(5),(10)(A) and (11)(B).

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NOTICE IS GIVEN that staff will present evidence in support of the recommended disposition of 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 § 301.461, TEX. OCC. CODE ANN. 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 Fraud, Theft & Deception which can be found at the Board's website, [www.bon.state.tx.us](http://www.bon.state.tx.us).

Filed this 20th day of June, 2008.

TEXAS BOARD OF NURSING



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

Victoria Cox North, Assistant General Counsel  
State Bar No. 00789585  
TEXAS BOARD OF NURSING  
333 Guadalupe, Tower III, Suite 460  
Austin, Texas 78701  
P: (512) 305-6824  
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Re: Permanent Certificate Number 164942  
Issued to ROBERT EDWARD GRAFE  
DEFAULT ORDER -REVOKE

CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of September, 2008, 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):

Robert Edward Grafe  
1514 Shasta  
Sulphur, LA 70663

BY:

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