BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
SARAH ELIZABETH GRIFFING,	§	
Vocational Nurse License Number 202544 and	§	
PETITIONER for Eligibility for Licensure	§	ELIGIBILITY ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of Vocational Nurse License Number 202544 and the Application by Examination, which has been processed as a Petition for Declaratory Order pursuant to 22 TEX. ADMIN. CODE §217.2(b) and §213.30, and supporting documents filed by SARAH ELIZABETH GRIFFING, hereinafter referred to as PETITIONER, together with any documents and information gathered by staff and Petitioner's Certification contained herein.

Information received by the Board produced evidence that PETITIONER may be subject to discipline and ineligible for licensure pursuant to Sections 301.452(b)(9),(10)&(13) and 301.453, Texas Occupations Code.

PETITIONER waived representation by counsel, notice and hearing, and agreed to the entry of this Order offered on December 9, 2011, by Katherine A. Thomas, MN, RN, FAAN, Executive Director.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact were served on Petitioner and Petitioner was given an opportunity to show compliance with all requirements of th law for retention of the license(s) and/or privilege(s).

2. Petitioner waived representation by counsel, informal proceedings, notice and hearing, and consented to the entry of this Order.

3. Petitioner is currently licensed to practice vocational nursing in the State of Texas.

4.   Petitioner received a Certificate in Vocational Nursing from South Plains College, Lubbock, Texas on December 16, 2005. Petitioner was licensed to practice vocational nursing in the State of Texas on January 31, 2006. Petitioner received an Associate Degree in Nursing from Angelo State University, San Angelo, Texas, on December 1, 2008.

5.   Petitioner's nursing employment history includes:

01/06-03/06	Unknown	
04/06-10/07	LVN	Brownfield Medical Center Brownfield, Texas
11/07-04/09	LVN	Shannon Medical Center San Angelo, Texas
05/09-09/09	LVN	Legend Oaks Nursing Home San Angelo, Texas
10/09-Present	Unknown	

6.   At the time of the initial incident as stated in Finding of Fact Number Seven (7), Petitioner was employed as a Licensed Vocational Nurse with Brownfield Medical Center, Brownfield, Texas, and had been in this position for approximately one (1) year and six (6) months.

7.   On or about October 15, 2007, while employed as a Licensed Vocational Nurse with Brownfield Medical Center, Brownfield, Texas, Petitioner was arrested by Lubbock Police Department, Lubbock, Texas, for Felony Prescription Fraud. Additionally, Petitioner admitted to calling in a fraudulent prescription. Petitioner's conduct was likely to deceive the pharmacy and possession of a narcotic through the use of a unauthorized fraudulent telephonically communicated prescription is prohibited by Chapter 481 of the Texas Health and Safety Code (Controlled Substances Act).

8.   On or about August 27, 2008, while employed as a Licensed Vocational Nurse with Shannon Medical Center, San Angelo, Texas, Petitioner lacked fitness to practice nursing in that she showed signs of impaired behavior including, but not limited to, appearing to be jittery, hyper, unable to concentrate, unable to arrive to work on time, and had frequent absences. Petitioner's condition could have affected her ability to recognize subtle signs, symptoms or changes in patients' conditions, and could have affected her ability to make rational, accurate, and appropriate assessments, judgments, and decisions regarding patient care, thereby placing the patients in potential danger.

9.   On or about May 5, 2009, while employed as a Licensed Vocational Nurse with Legend Oaks Nursing Home, San Angelo, Texas, and participating in the Texas Peer Assistance Program for Nurses (TPAPN), Petitioner engaged in the intemperate use of Amphetamines in that she

submitted a specimen for a drug screen that produced a positive result for Amphetamines (3464 ng/mL). The use of Amphetamines by a Licensed Vocational 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.

10. On or about June 22, 2009, while employed as a Licensed Vocational Nurse with Legend Oaks Nursing Home, San Angelo, Texas, and participating in the Texas Peer Assistance Program for Nurses (TPAPN), Petitioner engaged in the intemperate use of Amphetamines in that she submitted a specimen for a drug screen that produced a positive result for Amphetamines (2736 ng/mL). The use of Amphetamines by a Licensed Vocational 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.

11. On or about July 10, 2009, while employed as a Licensed Vocational Nurse with Legend Oaks Nursing Home, San Angelo, Texas, and participating in the Texas Peer Assistance Program for Nurses (TPAPN), Petitioner engaged in the intemperate use of Amphetamines in that she submitted a specimen for a drug screen that produced a positive result for Amphetamines (>5000 ng/mL). The use of Amphetamines by a Licensed Vocational 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.

12. On or about August 12, 2009, while employed as a Licensed Vocational Nurse with Legend Oaks Nursing Home, San Angelo, Texas, and participating in the Texas Peer Assistance Program for Nurses (TPAPN), Petitioner engaged in the intemperate use of Amphetamines in that she submitted a specimen for a drug screen that produced a positive result for Amphetamines (1652 ng/mL). The use of Amphetamines by a Licensed Vocational 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.

13. On or about October 1, 2009, while employed as a Licensed Vocational Nurse with Legend Oaks Nursing Home, San Angelo, Texas, Petitioner administered Lortab 5/325mg to a patient instead of Hydrocodone 10/500mg, as ordered by the physician. Petitioner's conduct was likely to injure the patient in that failure to administer medications as ordered by the physician could have resulted in nonefficacious treatment.

14. On or about September 15, 2009, while employed as a Licensed Vocational Nurse with Legend Oaks Nursing Home, San Angelo, Texas, Petitioner left her nursing assignment,

without notifying the appropriate personnel, while clocked in and on duty. Petitioner's conduct was likely to injure the patients in that leaving her nursing assignment could have resulted in the patients not getting the care that they needed.

15. On or about March 8, 2011, Petitioner defaulted on her guaranteed student loans, as provided in section 57.491 of the Texas Education Code. Petitioner's failure to repay her Texas Guaranteed Student Loan may have deprived other applicants of funds for nursing school loans.

16. On or about August 27, 2009, PETITIONER submitted an Application by Examination requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.2(b) and §213.30.

17. Petitioner completed the Application by Examination and answered "YES" to the question which reads as follows: *"For any criminal offense, including those pending appeal, have you:*

    A.   *been convicted of a misdemeanor?*
    B.   *been convicted of a felony?*
    C.   *pled nolo contendere, no contest, or guilty?*
    D.   *received deferred adjudication?*
    E.   *been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?*
    F.   *been sentenced to serve jail or prison time? court-ordered confinement?*
    G.   *been granted pre-trial diversion?*
    H.   *been arrested or have any pending criminal charges?*
    I.   *been cited or charged with any violation of the law?*
    J.   *been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?*
(You may only exclude Class C misdemeanor traffic violations.)"

On or about October 14, 2007, Petitioner was arrested by the Lubbock Police Department, Lubbock, Texas, for FRAUD (a 3rd Degree Felony Offense). On or about March 26, 2009, the charges against the Petitioner were rejected without a pre-trial diversion by the Prosecutor.

18. Petitioner completed the Application by Examination and answered "YES" to the question which reads as follows: *"Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?"*

19. On or about October 17, 2007, Petitioner entered into Serenity House, Abilene, Texas, an inpatient rehabilitation program for substance abuse subsequent to her arrest on October 14, 2007. Petitioner completed her program on or about November 15, 2007.

20. Formal Charges were filed on November 4, 2010.

21. Formal Charges were mailed to Petitioner on November 5, 2010.

22. The safety of patients and the public requires that all persons licensed to practice nursing be fit, sober, and able to consistently practice nursing in autonomous roles under demanding and stressful conditions.

23. Petitioner has sworn that, with the exception of matters disclosed in connection with the Application by Examination her past behavior conforms to the Board's professional character requirements at 22 TEX. ADMIN. CODE §213.27.

24. Petitioner presented no evidence of behavior which is inconsistent with good professional character.

25. The Executive Director considered evidence of Petitioner's past behavior in light of the character factors set out in 22 TEX. ADMIN. CODE §213.27 and determined that Petitioner currently demonstrates the criteria required for good professional character.

26. The Executive Director considered evidence of Petitioner's past criminal conduct in light of the considerations and criteria provided in 22 TEX. ADMIN. CODE §§213.28 & 213.33, and, if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.

27. The Executive Director considered evidence of Petitioner's substance abuse/chemical dependency, and subsequent rehabilitation as provided in 22 TEX. ADMIN. CODE §213.29 and in accordance with 22 TEX. ADMIN. CODE §213.33.

28. Petitioner's compliance with the terms of a Board approved peer assistance program should be sufficient to protect patients and the public.

29. The Executive Director's review of the grounds for potential ineligibility has been made on the basis of Petitioner's disclosures.

30. Petitioner has been advised by the Board that any information found to be incomplete, incorrect or misleading to the Board or a subsequent discovery of a basis of ineligibility will be considered by the Board and may result in an ultimate determination of ineligibility or the later revocation of a license obtained through fraud or deceit.

31. Petitioner shall immediately notify the Board of any fact or event that could constitute a ground of ineligibility for licensure under Section 301.452(b), Texas Occupations Code.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Sections 301.452 and 301.453, Texas Occupations Code.

2. On or about August 27, 2009, PETITIONER submitted an Application by Examination requesting a determination of eligibility for licensure in compliance with Sections 301.252, 301.253, 301.257 and 301.258, Texas Occupations Code, and the Board's Rules at 22 TEX. ADMIN. CODE §217.2(b) and §213.30.

3. Petitioner's history reflects conduct which may constitute grounds for discipline and denial of a license under Section 301.452(b)(9),(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.11(1)(A),(B),(C)&(I) and 22 TEX. ADMIN. CODE §217.12(1)(A)&(B),(4),(5),(7),(10)(A),(D)&(E),(11)(B),(12)&(13).

4. The Board may probate the denial of a license under conditions for a specified term pursuant to Section 301.453, Texas Occupations Code.

5. The Board may license an individual who has been previously convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not a sentence was imposed upon consideration of the factors set out in 22 TEX. ADMIN. CODE §213.28 and evaluating the direct relationship to nursing according to 22 TEX. ADMIN. CODE §213.28 and, if applicable, Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code.

6. The Board may license an individual who has a history of substance abuse and/or chemical dependency after consideration of the criteria set out in 22 TEX. ADMIN. CODE §213.29 if the Board determines the individual does not pose a direct threat to the health and safety of patients or the public.

7. The Board may license an individual with prior behaviors inconsistent with the Board's character requirements if, upon evaluation of the factors in 22 TEX. ADMIN. CODE §213.27, and pursuant to 22 TEX. ADMIN. CODE §213.33, the Board is satisfied that the individual is able to consistently conform her conduct to the requirements of the Nursing Practice Act, the Board's Rules and Regulations, and generally accepted standards of nursing practice.

8. The Board may, in its discretion, order a nurse to participate in a peer assistance program approved by the Board if the nurse would otherwise have been eligible for referral to peer assistance pursuant to Section 301.410, Texas Occupations Code.

9. This Order is conditioned upon the accuracy and completeness of Petitioner's disclosures. Any subsequently discovered discrepancies will result in investigation and possible disciplinary action, up to revocation of Petitioner's license(s).

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED, subject to ratification by the Texas

Board of Nursing, that Vocational Nurse License Number 202544, previously issued to SARAH

ELIZABETH GRIFFING, to practice nursing in Texas is hereby SUSPENDED and said suspension

is ENFORCED until Petitioner completes the following requirements:

(1) PETITIONER SHALL initiate contact with the Texas Guaranteed Student Loan Corporation and make arrangements to repay the student loan. Upon approval of a repayment contract with the Texas Guaranteed Student Loan Corporation, PETITIONER SHALL CAUSE the Texas Guaranteed Student Loan Corporation to submit verification of te defaulted loan's repayment status directly to the Board.

IT IS FURTHER AGREED and ORDERED that this order SHALL be applicable to Petitioner's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Petitioner's license(s) is/are encumbered by this order that Petitioner may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Petitioner wishes to work.

IT IS FURTHER AGREED that, upon verification of successful completion of the above requirements, the SUSPENSION will be STAYED and PETITIONER will be placed on PROBATION and PETITIONER SHALL be subject to the remaining agreed terms of this order.

PETITIONER SHALL pay all re-registration fees, if applicable, and PETITIONER'S licensure status in the State of Texas will be updated to reflect the applicable conditions outlined herein.

IT IS FURTHER AGREED that, upon meeting the requirements for graduation of an appropriate program in nursing education and payment of any required fees, PETITIONER is ELIGIBLE to sit for the National Council Licensure Examination for Practical Nurses (NCLEX-PN® Examination) and/or the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination), as applicable.

IT IS FURTHER AGREED that PETITIONER SHALL NOT be eligible for temporary

authorization to practice as a Graduate Vocational Nurse (GVN) and/or as a Graduate Nurse (GN), as applicable, in the State of Texas.

IT IS FURTHER AGREED that, upon payment of any required fees upon attaining a passing grade on the appropriate National Council Licensure Examination, PETITIONER shall be issues the applicable license to practice nursing in the State of Texas.

NOW, THEREFORE, IT IS FURTHER AGREED and ORDERED that PETITIONER SHALL comply with the following conditions for such a time as required for PETITIONER to successfully complete the Texas Peer Assistance Program for Nurses (TPAPN):

(2) PETITIONER SHALL, within forty-five (45) days of the Suspension being Stayed, apply to and be accepted into the TPAPN, which SHALL include payment of a non-refundable participation fee in the amount of three hundred fifty dollars ($350.00) payable to TPAPN.

(3) Upon acceptance into the TPAPN, PETITIONER SHALL waive confidentiality and provide a copy of the executed TPAPN contract to the Texas Board of Nursing.

(4) PETITIONER SHALL comply with all requirements of the TPAPN contract during its term.

(5) PETITIONER SHALL CAUSE the TPAPN to notify the Texas Board of Nursing of any violation of the TPAPN contract.

PETITIONER SHALL obtain and read the Texas Nursing Practice Act and the Rules and Regulations Relating to Nurse Education, Licensure, and Practice.

PETITIONER SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.*, and this Order.

IT IS FURTHER AGREED, SHOULD PETITIONER fail to comply with this Order or the terms of the participation agreement with the TPAPN, such noncompliance will result in disciplinary

action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations

Code, or revocation of PETITIONER'S license(s) and nurse compact licensure privileges, if any, to

practice nursing in the State of Texas.

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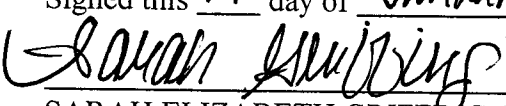
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PETITIONER'S CERTIFICATION

I am the Petitioner in this matter. I have fully and truthfully disclosed all of my past conduct which could constitute grounds for licensure ineligibility, and I have caused a complete and accurate criminal history to be submitted to the Texas Board of Nursing from each jurisdiction in which I have been adjudged guilty by way of conviction or deferred order. I certify that my past behavior, except as disclosed in my application and/or petition, has been in conformity with the Board's character rule. I have provided the Board with complete and accurate documentation of my past conduct in violation of the penal law of any jurisdiction which was disposed of through any procedure short of conviction, such as: conditional discharge, deferred adjudication or dismissal. I have no criminal prosecution pending in any jurisdiction.

In connection with my application and/or petition, I acknowledge that I have read and I understand Sections 301.157(d), 301.252, 301.253, 301.257, 301.258, 301.260, 301.452, and 301.453, Texas Occupations Code, and Chapter 53, Section 53.001 *et seq.*, Texas Occupations Code, and 22 TEX. ADMIN. CODE §§213.27, 213.28, 213.29, and 213.30. I agree with all terms of this Order, including the Findings of Fact and Conclusions of Law and any stipulations as set out in this Order. I acknowledge that this Order is stipulated and I understand that I am not eligible to receive a Temporary Permit to practice nursing. I agree to inform the Board of any other fact or event that could constitute a ground for denial of licensure prior to accepting any license from the Texas Board of Nursing.

I do acknowledge possessing a diagnosis that deems me eligible to participate in the Texas Peer Assistance Program for Nurses. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, and Conditions One (1) through Four (4) of this Order to obtain disposition of my potential ineligibility for licensure through peer assistance.

I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of my license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas, as a consequence of my noncompliance.
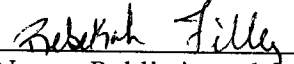
I understand that I can be represented by an attorney in this matter. I waive representation, notice, administrative hearing, and judicial review of this Order and request that the Texas Board of Nursing ratify this Order.
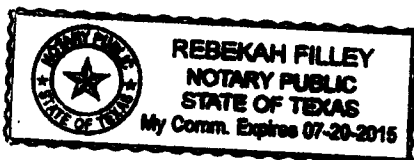
Signed this 19 day of January 2012

_____
SARAH ELIZABETH GRIFFING, PETITIONER

Sworn to and subscribed before me this 19 day of January, 2012.

SEAL   _____
Notary Public in and for the State of Texas

REBEKAH FILLEY
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 07-20-2015

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the Texas Board of Nursing does hereby ratify and adopt the Agreed Eligibility Order that was signed on the 19th day of January , 2012 , by SARAH ELIZABETH GRIFFING, Vocational Nurse License Number 202544 and PETITIONER for Eligibility for Licensure, and said Order is final.

Effective this 14th day of February ,2012 .

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