BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of	§	AGREED
Vocational Nurse License Number 135454	§	
issued to SANDY SUE MCGEE	§	ORDER

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.
Executive Director of the Board

On this day, the Texas Board of Nursing, hereinafter referred to as the Bc accepted the voluntary surrender of Vocational Nurse License Number 135454, issued to SANDY SUE MCGEE, a/k/a SANDY JETER GILL, SANDY SUE MONEYMAKER, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated TEX. REV. CIV. STAT., Art. 4528c, sec.10(a)(9)(effective September 1, 1985); TEX. REV. CIV. STAT., Art. 4528c, sec. 10(a)(9) (effective September 1, 1993); TEX. REV. CIV. STAT., Art. 4528c, sec. 10(a)(9) (effective September 1, 1997); TEX. OCC. CODE §§302.401(1) and 302.402(a)(2) & (10) (effective September 1, 2001); and TEX. OCC. CODE §§301.452(b)(2) & (10)(effective September 1, 2004).

Respondent waived notice and hearing, and agreed to the entry of this Order offered on January 17, 2011, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board. The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Respondent waived notice and hearing, and agreed to the entry of this Order.

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

4. Respondent received a Certificate in Vocational Nursing from Tyler Junior College, Jacksonville, Texas, on August 23, 1991. Respondent was licensed to practice vocational nursing in the State of Texas on December 3, 1991.

5. Respondent's vocational nursing employment history is currently unknown. However, Respondent is currently employed as Assistant Executive Director of Emeritus Senior Living, an assisted living facility, where she assists the executive director in the overall operation of the community in a role that does not require direct patient care.

6. On or about June 9, 1998, Respondent's license to practice vocational nursing in the State of Texas was issued a Suspend/Probate Agreed Order by the Board of Vocational Nurse Examiners for the State of Texas. A copy of the Agreed Order, dated June 9, 1998, is attached and incorporated, by reference, as part of this Order.

7. On or about September 5, 1990, Respondent entered a plea of Guilty to RECKLESS CONDUCT (a Misdemeanor offense committed on July 2, 1990), filed in the County Court at Law of Cherokee County, Rusk, Texas, under Cause No. 28589. As a result of the guilty plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of six (6) months.

8. On or about August 24, 1994, Respondent entered a plea of Guilty and was subsequently Convicted of RECKLESS CONDUCT (a Misdemeanor offense), filed in the County Court at Law of Cherokee County, Rusk, Texas, under Cause No. 32964. As a result of the conviction, Respondent was ordered to pay a fine and court costs.

9. On or about June 25, 1999, Respondent entered a plea of No Contest or Nolo Contendere to THEFT OF PROPERTY >= $50 < $500 (a Class B Misdemeanor offense), filed in the County Criminal Court No. 6 of Dallas County, Dallas, Texas, under Cause No. M-9952983. As a result of the No Contest or Nolo Contendere plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of one (1) year. Additionally, Respondent was ordered to pay a fine and court costs.

10. On or about June 25, 1999, Respondent entered a plea of Guilty to UNLAWFULLY OBTAINING A CONTROLLED SUBSTANCE, TO WIT: ALPRAZOLAM (a State Jail Felony offense committed on June 14, 1999), filed in the 265th Judicial District Court of Dallas, County, Dallas, Texas, under Cause No. F-9949230-R. As a result of the guilty plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of four (4) years. Additionally, Respondent was ordered to pay a fine and court costs.

On or about June 25, 1999, Respondent entered a plea of Guilty to POSSESSION OF A BLANK FRAUDULENT PRESCRIPTION FORM (a State Jail Felony offense), filed in the 265th Judicial District Court of Dallas County, Dallas, Texas, under Cause No. F-9949184-R. As a result of the guilty plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of four (4) years. Additionally, Respondent was ordered to pay a fine and court costs.

On or about June 25, 1999, Respondent entered a plea of Guilty to UNLAWFUL OBTAINING A CONTROLLED SUBSTANCE, TO WIT: OXYCODONE (a State Jail Felony offense), filed in the 265th Judicial District Court of Dallas County, Dallas, Texas, under Cause No. F-9949185-R. As a result of the guilty plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of four (4) years. Additionally, Respondent was ordered to pay a fine and court costs.

On or about March 22, 2002, an Order Modifying The Conditions of Community Supervision was entered in the 265th Judicial District Court of Dallas, County, Dallas, Texas, under Cause No. F-9949184-R. As a result, Respondent was required to submit to a period of detention in the Dallas County Jail for a term of sixty (60) days, starting March 11, 2002.

On or about June 11, 2002, a Continuation and Modification Special Condition was entered in the 265th Judicial District Court of Dallas, County, Dallas, Texas, under Cause No. F-9949230-R, Cause No. F-9949184-R, and Cause No. F-9949185-R. As a result, Respondent was sentenced to participate in a substance abuse treatment facility.

On or about June 17, 2003, an Order Extending Probation for One Year was entered in the 265th Judicial District Court of Dallas, County, Dallas, Texas, under Cause No. F-9949230-R, Cause No. F-9949184-R, and Cause No. F-9949185-R.

On or about May 19, 2003, an Order Releasing From Substance Abuse Felony Punishment Facility was entered in the 265th Judicial District Court of Dallas, County, Dallas, Texas, under Cause No. F-9949230-R, Cause No. F-9949184-R, and Cause No. F-9949185-R.

On or about June 30, 2004, an Order Dismissing Proceedings and Granting Discharge From Community Supervision Following Deferred Adjudication was entered in the 265th Judicial District Court of Dallas, County, Dallas, Texas, under Cause No. F-9949230-R and Cause No. F-9949184-R

11. In response to Finding of Fact Number Ten (10), Respondent states that she was arrested for having a fraudulent prescription for Alprazolam and having Percodan from Mexico in her possession. Respondent states that during her deferred adjudication probation term, she entered in an eleven (11) month in-patient substance abuse facility (SAFP), she completed a year of after-care through First Step Counseling, and was urine tested every two (2) weeks.

12. On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of UNLAWFUL CARRYING WEAPON (a Class A Misdemeanor offense committed on March 30, 1998), filed in the County Criminal Court No. 1 of Denton County, Denton, Texas, under Cause No. CR-9803758-A. As a result of the conviction, Respondent was sentenced to confinement in the Denton County Jail for a period of one hundred eighty (180) days, with the imposition of the sentence to confinement suspended, and was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

13. On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of POSSESSION OF PROHIBITED WEAPON (a Class A Misdemeanor offense committed on March 30, 1998), filed in the County Criminal Court No. 1 of Denton County, Texas, under Cause No. CR-9804345-A. As a result of the conviction, Respondent was sentenced to confinement for a period of one (1) year, with the imposition of the sentence to confinement suspended, and was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

14. In response to Finding of Fact Numbers Twelve (12) and Thirteen (13), Respondent states that she was involved in a fight with her then live-in boyfriend and was trying to move out. Respondent states that he called the police in retaliation. Respondent states that when the police arrived, they found her pistol, which she thought she was legally transporting, and her boyfriend's brass knuckles, which she did not know about.

15. On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of PURCHASE/FURNISHING ALCOHOL TO A MINOR (a Class a Misdemeanor offense committed on September 18, 1998), filed in the County Criminal Court No. 1 of Denton County, Denton, Texas, under Cause No. CR-989456-A. As a result of the conviction, Respondent was sentenced to confinement in the Denton County Jail for a period of one hundred eighty (180) days, with the imposition of the sentence to confinement suspended, and was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

16. On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of POSSESSION CONTROLLED SUBSTANCE PENALTY GROUP 3 < 28G (a Misdemeanor offense committed on February 16, 1999), filed in the County Criminal Court No. 1 of Denton County, Denton, Texas, under Cause No. CR-9903048-A. As a result of the conviction, Respondent was sentenced to confinement in the Denton County Jail for a period of one (1) year, with the imposition of the sentence to confinement suspended, and was placed on probation for a period of two (2) years. Additionally, Respondent was ordered to pay a fine and court costs.

17. On or about September 27, 2001, Respondent submitted an LVN License Renewal Form to the Texas Board of Vocational Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information in that she answered "No" to the question:

Were you convicted of a misdemeanor other than a minor traffic violation since your last renewal?

On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of UNLAWFUL CARRYING WEAPON (a Class a Misdemeanor offense committed on March 30, 1998), filed in the County Criminal Court No. 1 of Denton County, Denton, Texas, under Cause No. CR-9803758-A.

On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of POSSESSION OF PROHIBITED WEAPON (a Class a Misdemeanor offense committed on March 30, 1998), filed in the County Criminal Court No. 1 of Denton County, Texas, under Cause No. CR-9804345-A.

On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of PURCHASE/FURNISHING ALCOHOL TO A MINOR (a Class a Misdemeanor offense committed on September 18, 1998), filed in the County Criminal Court No. 1 of Denton County, Denton, Texas, under Cause No. CR-989456-A.

On or about January 26, 2000, Respondent entered a plea of Guilty and was subsequently Convicted of POSSESSION CONTROLLED SUBSTANCE PENALTY GROUP 3 < 28G (a Misdemeanor offense committed on February 16, 1999), filed in the County Criminal Court No. 1 of Denton County, Denton, Texas, under Cause No. CR-9903048-A.

18. In response to Finding of Fact Number Seventeen (17), Respondent states that she was naively under the impression of her attorney that at the end of the deferred adjudication probation, the entries would be removed from her record. Respondent states she never reported them to the Board because she thought that only felony convictions applied and she feared losing her license.

19. On or about November 3, 2005, Respondent submitted a Texas Online Renewal Document: Licensed Vocational Nurse to the Board of Nurse Examiners for the State of Texas in which she provided false, deceptive, and/or misleading information in that she answered "No" to the question:

> In the past five years, have you been addicted or treated for the use of alcohol or any Other drug?

On or about March 25, 2004, Respondent completed the First Step Counseling Center Drug and Alcohol Education and Treatment program. This treatment was required by Judge Keith Dean, presiding over the 265th District Judicial Court of Dallas, County, Texas, in cause nos. F9949230R, F9949184R, and F9949185R as a special condition and continuation of Respondent's probation as a result of her violation of her probation terms.

20. Respondent has submitted to the Board at least ten (10) letters of support from family members, her ex-husband, co-workers, former supervisors, counselors and Judge Keith Dean attesting to her character.

21. On or about December 20, 2010, Respondent submitted to a psychological evaluation with a chemical dependency component conducted by a licensed psychologist approved by the Board. Based on that evaluation, the psychologist opined that Respondent is capable of avoiding behaviors that constitute unprofessional conduct in her work as a nurse.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation of TEX. REV.CIV.STAT.ART. 4528c, sec.10(a)(9)(effective September 1, 1985); TEX. REV.CIV.STAT.ART. 4528c, sec. 10(a)(9) (effective September 1, 1993); TEX. REV.CIV.STAT.ART. 4528c, sec. 10(a)(9) (effective September 1, 1997); TEX. OCC. CODE §§302.401(1) and 302.402(a)(2) & (10) (effective September 1, 2001); and TEX. OCC. CODE §§301.452(b)(2) & (10)(effective September 1, 2004).

4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 135454, heretofore issued to SANDY SUE MCGEE, including revocation of Respondent's license to practice nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that Vocational Nurse License Number 135454, previously issued to SANDY SUE MCGEE to practice vocational nursing in Texas is hereby SUSPENDED for a period of two (2) years with the suspension STAYED and Respondent is hereby placed on PROBATION for two (2) years with the following agreed terms of probation:

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

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the Respondent 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 Respondent wishes to work.

(1) RESPONDENT 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.

(2) RESPONDENT SHALL pay a fine in the amount of seven hundred and fifty dollars ($750). RESPONDENT SHALL pay this fine within forty-five (45)days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check or U.S. money order. Partial payments will not be accepted.

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is <u>not</u> being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder;

and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: http://learningext.com/hives/a0f6f3e8a0/summary.*

IT IS FURTHER AGREED, SHOULD RESPONDENT'S CURRENT POSITION AS ASSISTANT EXECUTIVE DIRECTOR WITH EMERITUS SENIOR LIVING, DALLAS, TEXAS, CEASE OR CHANGE, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING PROBATION CONDITIONS FOR TWO (2) YEARS OF EMPLOYMENT. THE LENGTH

OF THE PROBATIONARY PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS PROBATIONARY PERIOD, WITH THE EXCEPTION OF RESPONDENT'S CURRENT POSITION AS ASSISTANT EXECUTIVE DIRECTOR WITH EMERITUS SENIOR LIVING, DALLAS, TEXAS:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) Should Respondent's current employment as Assistant Executive Director with Emeritus Senior Living, Dallas, Texas, cease or change, RESPONDENT SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse

is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

(9) RESPONDENT SHALL CAUSE each employer to submit, on forms provided to the Respondent by the Board, periodic reports as to RESPONDENT'S capability to practice nursing. These reports shall be completed by the senior vice president of Emeritus Senior Living, or the Registered Nurse who supervises the RESPONDENT. These reports shall be submitted by the senior vice president of Emeritus Senior Living or the supervising nurse to the office of the Board at the end of each three (3) month period for two (2) years of employment as a nurse.

(10) RESPONDENT SHALL abstain from the consumption of alcohol, Nubain, Stadol, Dalgan, Ultram, or other synthetic opiates, and/or the use of controlled substances, except as prescribed by a licensed practitioner for a legitimate purpose. If prescribed, RESPONDENT SHALL CAUSE the licensed practitioner to submit a written report identifying the medication, dosage and the date the medication was prescribed. The report shall be submitted directly to the

office of the Board by the prescribing practitioner, within ten (10) days of the date of the prescription. **In the event that prescriptions for controlled substances are required for periods of two (2) weeks or longer, the Board may require and RESPONDENT SHALL submit to an evaluation by a Board approved physician specializing in Pain Management or Psychiatry. The performing evaluator will submit a written report to the Board's office, including results of the evaluation, clinical indications for the prescriptions, and recommendations for on-going treatment within thirty (30) days from the Board's request.**

(11) RESPONDENT SHALL submit to random periodic screens for controlled substances, tramadol hydrochloride (Ultram), and alcohol. Random screens shall be performed at least once per month for the first twelve (12) months of RESPONDENT'S probationary period. All random screens SHALL BE conducted through urinalysis. Screens obtained through urinalysis are the sole method accepted by the Board.

Specimens shall be screened for at least the following substances:

Amphetamines	Meperidine
Barbiturates	Methadone
Benzodiazepines	Methaqualone
Cannabinoids	Opiates
Cocaine	Phencyclidine
Ethanol	Propoxyphene
tramadol hydrochloride (Ultram)	

A Board representative may appear at the RESPONDENT'S place of employment at any time during the probation period and require RESPONDENT to produce a specimen for screening.

All screens shall be properly monitored and produced in accordance with the Board's policy on Random Drug Testing. A complete chain of custody shall be maintained for each specimen obtained and analyzed. RESPONDENT SHALL be responsible for the costs of all random

drug screening during the probation period.

Any positive result for which the nurse does not have a valid prescription or failure to report for a drug screen, which may be considered the same as a positive result, will be regarded as non-compliance with the terms of this Order and may subject the nurse to further disciplinary action including EMERGENCY SUSPENSION pursuant to Section 301.4551, Texas Occupations Code, or REVOCATION of Respondent's license(s) and nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that if during the period of probation, an additional allegation, accusation, or petition is reported or filed against the Respondent's license(s), the probationary period shall not expire and shall automatically be extended until the allegation, accusation, or petition has been acted upon by the Board.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. 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 revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 22 day of January, 2011.

SANDY SUE MCGEE, Respondent

Sworn to and subscribed before me this 22 day of January, 2011.

SEAL

Notary Public in and for the State of TX

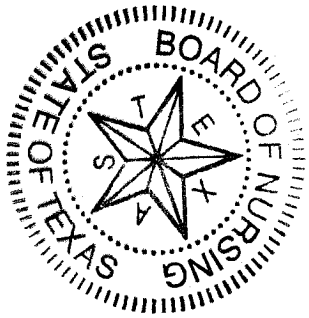
Mario Arteaga
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
8/20/14

Approved as to form and substance.

Dan Lyne, Attorney for Respondent

Signed this 2 day of March, 2011.

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 22nd day of January, 2011, by SANDY SUE MCGEE, Vocational Nurse License Number 135454, and said Order is final.

Effective this 8th day of March, 2011.

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