

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
NOVEMBER 8, 2011, AND DECEMBER 13, 2011**

The Eligibility and Disciplinary Committee (Committee) convened on November 8, 2011, and December 13, 2011. This report collectively summarizes the matters and decisions made at the time of the meeting¹.

Petitioners for Licensure

The Committee considered three (3) petitions for licensure:

1. Petitioner filed a petition for licensure based on two misdemeanor offenses that occurred in September, 2001. Additionally, Petitioner disclosed that he entered an outpatient treatment program for alcohol addiction in December, 2009 and completed the program in May, 2010.

Petitioner did not appear. The Committee voted to **continue** the petition for licensure, until such time as Petitioner is able to appear and provide additional information surrounding his criminal history and alcohol use.

2. Petitioner filed a petition for licensure based on two felony offenses committed in 1996 and 1997. In July, 2011, Petitioner underwent a forensic psychological evaluation with a polygraph examination wherein the examiner opined that the Petitioner did not appear to have mood or behavior disorders, or any substance abuse issues that would prohibit her from conducting herself in accordance with the Board's rules.

Petitioner appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 4, 5, 6a and 10 for a period of one year.

3. Petitioner filed a petition based on having her permit to operate a licensed child care center revoked in July 2009, as a result of her being found to have abused her daughter by Child Protective Services.

Petitioner appeared in person and was represented by counsel. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 1j, 4, 5, 6, 6a and 10 for a period of two years.

¹ This report should be reviewed in order to keep apprised of issues and decisions so that the Board may remain consistent with precedent.

Petitioners for an Exception to a Previous Board Order

The Committee considered eight (8) petitions for an exception to a previous board order:

1. Petitioner requested an exception to her Limited License issued in March, 2010, requesting that she be allowed to return to direct patient care. It was the Committee's decision to **grant** the request and allow Petitioner to return to direct patient care with the following stipulations: 1b, 1j, 4, 5, 6, 6a and 10 for a period of two years.
2. Petitioner was issued an agreed order in September, 2011, as a result of utilizing physician letterhead to write school absence excuses. Petitioner requested that the physician at her facility be allowed to supervise her nursing practice. It was the Committee's decision to **grant** the request, as it is likely that the physician would provide adequate supervision concerning similar violations.
3. Petitioner requested that she be issued a Limited License, in lieu of completing her agreed order issued in July, 2010, which required her to provide direct patient care. It was the Committee's decision to **grant** the Petitioner's request.
4. Petitioner was issued an eligibility agreed order in November, 2001, in response to her admission that she had been addicted to, and/or treated for the use of alcohol or any other drug within the past five years. However, Petitioner did not become licensed in Texas. Rather, Petitioner was issued unencumbered licenses in five other states, and she provided evidence that she has practiced without incident since 2003. Petitioner requested that the Board grant her an unencumbered license. It was the Committee's decision to **grant** the request and only require the Petitioner to complete a course in nursing jurisprudence and ethics.
5. Petitioner was issued an agreed order in September, 2010 based on criminal history involving assault to a family member and indecency with a child. Petitioner requested that he be issued an unencumbered license, as he had completed his probation and did not practice nursing for a period of one year. It was the Committee's decision to **deny** the request, as his stipulations are consistent with Board policy.
6. Petitioner requested that she be allowed to practice nursing unsupervised, as she stated that she is unable to secure employment with supervisory stipulations. Petitioner did not provide any evidence that would justify granting her request, and had previously been granted an exception to the supervision requirement for a particular employer. Therefore, it was the Committee's decision to **deny** the request.
7. Petitioner requested an exception to his order issued in April, 2011, wherein the full Board, after considering his proposal for decision, voted to issue the sanction of Reprimand with Stipulations. Petitioner requested that he be allowed to participate in TPAPN rather than complete his order. It was the

Committee's decision to **deny** the request, as the Petitioner did not present a compelling reason to grant an exception to the order.

8. Petitioner requested an exception to an agreed order issued in August, 2011, requesting that she be allowed to be supervised by a RN with less than two years experience for a specific employer. It was the Committee's decision to **grant** Petitioner's request, as the Petitioner and her employer both appeared and addressed board member concerns regarding supervision.

Motions for Rehearing

The Committee considered nine (9) motions for rehearing:

1. Movant filed a timely Motion for Rehearing in this matter. Movant's license was revoked by default for non-compliance with her board order. Movant received the notice of hearing but did not attend the hearing or provide a written response to the formal charges. Therefore, it was the Committee's decision to **deny** the motion, as the Movant did not provide information sufficient to comply with Board Rule 213.16(j).
2. Movant filed a timely Motion for Rehearing in this matter. Movant's license was revoked by default for non-compliance with her board order. Movant stated that her address changed because she separated from her husband, but did not provide a meritorious defense to the allegations contained in the formal charges. Movant did not provide information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **deny** the motion.
3. Movant filed a Motion for Rehearing more than 20 days after the Board's order; however, Movant stated that he did not receive notice of the final order until a later date and filed his motion within 20 days of actually learning of the revocation. Movant admitted to failing to change his address. Movant self disclosed his convictions and stated that his offenses do not warrant license revocation. Movant provided information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **grant** the motion.
4. Movant filed an untimely Motion for Rehearing in this matter. Movant stated that her address on file with the board is correct; however, she didn't get her mail. Movant pled guilty to and served probation of a felony drug crime and did not disclose it on her renewal. Movant did not provide information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **deny** the motion.
5. Movant filed an untimely Motion for Rehearing in this matter, except for his claim of actual notice. Movant did not provide an explanation as to why he did not change his address. Movant admitted to the allegations, but failed to provide a meritorious defense. Movant did not provide information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **deny** the motion.

6. Movant filed an untimely Motion for Rehearing in this matter. Movant stated that he maintained contact with Board Staff during the investigation and that he responded to the allegations via facsimile. Movant's untimely motion was due to his reliance upon Staff's statements that he would be contacted at his Louisiana address. Movant stated that he has no plan to practice nursing in Texas and that he has been disciplined for practicing outside of his scope from the state board he is licensed by. Movant provided information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **grant** the motion.
7. Movant filed an untimely Motion for Rehearing in this matter. Movant's license was revoked by default for non-compliance with her board order. Movant stated that she didn't feel that she could ever satisfy the requirements of her reinstatement agreed order, therefore, she obtained employment outside of nursing and disregarded all correspondence from the Board. It was the Committee's decision to **deny** the motion, as the Movant did not provide information sufficient to comply with Board Rule 213.16(j).
8. Movant filed an untimely Motion for Rehearing in this matter. Movant stated that stressful issues in his personal life caused him to be unable to respond to the allegations. Movant denied the allegations, but did not provide evidence in support of his position. Movant did not provide information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **deny** the motion.
9. Movant filed an untimely Motion for Rehearing in this matter, except for her claim of actual notice. Movant stated that she forwarded her mail to her mother's address, but that her mother was unable to get her mail. Movant did not discuss her criminal history or her failure to disclose said history with the Committee. It was the Committee's decision to **deny** the motion, as the Movant did not provide information sufficient to comply with Board Rule 213.16(j).

Orders Ratified:

One hundred nineteen (119) disciplinary agreed orders were approved.

Eight (8) reinstatement agreed orders were approved.

Twenty-nine (29) eligibility agreed orders were approved.

One hundred thirty-eight (138) default revocation orders were approved.

Three (3) deferred disciplinary agreed orders were approved.