

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
February 12, 2013, AND March 19, 2013**

The Eligibility and Disciplinary Committee (Committee) convened on February 12, 2013 and March 19, 2013. 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 an application for a Six Month Temporary Permit to Complete Refresher Course, Extensive Orientation, or Nursing Program of Study. Staff was unable to grant the Application. Petitioner submitted a verification and of a completed refresher course prior even though no permit had yet been issued. Additionally there was a physician's note requesting that the Petitioner be excused from completing the CPR requirements of the refresher course. Upon Staff's request, Petitioner further submitted information from Petitioner's physician stating that, due to Petitioner's physical condition, Petitioner cannot directly see patients. The Board's refresher course requires a minimum of 80 hours of supervised clinical experience providing client care. Although Petitioner submitted paperwork indicating that Petitioner provided such care, Petitioner's physician clearly stated that Petitioner was incapable of providing care. Petitioner appealed the decision to deny the issuance of a Six Month Temporary Permit to the Eligibility and Disciplinary Committee.

Petitioner appeared by telephone. The Committee voted to **deny** the Petitioner's request.

2. Petitioner filed a petition for licensure based on the misdemeanor offense of Possession of Marijuana committed in 2004, the misdemeanor offense of Driving While Intoxicated committed in 2005, the misdemeanor offense of Driving While Intoxicated 2nd, committed in 2006, and the felony offense of Driving While Intoxicated 3rd, committed in 2008. For the first misdemeanor charge in 2004, the complaint was dismissed. For the second misdemeanor charge in 2005, Petitioner pled Nolo Contendere and was sentenced to confinement for a period of thirty-five (35) days. For the third misdemeanor charge in 2006, Petitioner pled Guilty. Petitioner was sentenced to confinement for a period of thirty (30) days. For the felony offense in 2008, Petitioner pled Guilty to and was convicted of Driving While

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

Intoxicated and Felony Repetition. As a result of the conviction, Petitioner was sentenced to confinement in the Texas District of Criminal Justice for a period of seven (7) years; however, imposition of the sentence of confinement was suspended and Petitioner was placed on probation for a period of four (4) years. There has been no other criminal conduct since 2008. Petitioner was not enrolled in a nursing program at the time of Petition.

Petitioner appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: Petitioner must enroll in TPAPN.

3. Petitioner filed an Application for Reinstatement. Petitioner was entered into a nine (9) month Monitored Diversion Program for the offenses of Interfering With Judicial Proceedings and Harassment. On or about July 17, 2012, Petitioner successfully completed the diversion program and the complaint was dismissed with prejudice. On or about October 29, 2010, Petitioner successfully completed probation. Petitioner was enrolled in a nursing program at the time of Petition.

Petitioner appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 1j (critical thinking), 1j (boundaries), 4, 5, 6, 6a, 10, 11, 12 and 13a X 3 years.

Petitioners for an Exception to a Previous Board Order

The Committee considered sixteen (16) petitions for an exception to a previous board order:

1. Petitioner requested an Exception to a previous Board Order issued in April, 2008, requesting the removal of the minimum of two years experience in the in the same or similar practice setting for supervisors and to be able to work night shifts and overtime. It was the Committee's decision to **grant** the request with the following stipulations: may only work night shifts and overtime for one employer.
2. Petitioner requested an Exception to a previous Board Order issued in February, 2012, requesting that her order be terminated early. It was the committee's decision to **deny** the request. The order issued February, 2012, stands.
3. Petitioner requested an Exception to a previous Board Order issued in August, 2012, requesting that she be allowed to care for telemetry patients. It was the Committee's decision to **grant** the request. The remaining stipulations remain unchanged.
4. Petitioner requested an Exception to a previous Board Order issued in July 2010, requesting that she be allowed to practice direct patient care. It was the committee's decision to **deny** the request. The order issued July, 2010, stands.
5. Petitioner requested an Exception to a previous Board Order issued in February 2012, requesting that she be allowed to work for a different home health agency. It was the Committee's decision to **deny** the request. The order issued February 2012, stands.

6. Petitioner requested an Exception to a previous Board Order issued in May, 2011, requesting that she be granted an unencumbered license. It was the Committee's decision to **grant** the request.
7. Petitioner requested an Exception to a previous Board Order issued in July, 2011 requesting that she be allowed to practice direct patient care. It was the Committee's decision to **grant** the request under the following conditions: Suspend/Probate, 1b, 1j, 4-12, 14 X 2 years, \$500.00 fine .
8. Petitioner requested an Exception to a previous Board Order issued in August, 2006, requesting that he be allowed to practice outside of a hospital setting. It was the Committee's decision to **continue** the request until a physician's statement is received indicating Petitioner may return to practice.
9. Petitioner requested an Exception to a previous Board Order issued in August, 2006, requesting that she be issued an unencumbered license. It was the Committee's decision to **grant** the request under the following conditions: Petitioner must provide proof of completion of the educational requirements of the order.
10. Petitioner requested an Exception to a previous Board Order issued in February, 2012, requesting that the indirect supervision requirement be removed. It was the Committee's decision to **deny** the request. The order issued February, 2012, stands.
11. Petitioner requested an Exception to a previous Board Order issued in August, 2012, requesting that she be allowed to discuss her concerns regarding the Deferred Disciplinary Action Pilot Program. No action was taken.
12. Petitioner requested an Exception to a previous Board Order issued in October 2009, requesting that she be allowed to complete the remainder of her Order in Louisiana. It was the Committee's decision to **grant** the request under the following conditions: the Louisiana Board must agree to license petitioner and apply the same stipulations as the Texas order.
13. Petitioner requested an Exception to a previous Board Order issued in September 2008, requesting that she be allowed to practice without supervision. It was the Committee's decision to **deny** the request. However, after further discussion, a Limited License was issued to Petitioner.
14. Petitioner requested an Exception to a previous Board Order issued in November 2009, requesting that she be allowed to pass narcotics and work on a rotating schedule. It was the Committee's decision to **deny** the request. The order issued November 2009, stands.
15. Petitioner requested an Exception to a previous Board Order issued in January 2010, requesting that she be allowed to practice in a setting that does not require direct

patient care. It was the Committee's decision to **grant** the request. Petitioner issued a Limited License.

16. Petitioner requested an Exception to a previous Board Order issued in September 2005, requesting that he be allowed to provide direct patient care. It was the Committee's decision to **grant** the request under the following conditions: Petitioner must enroll in TPAPN and complete a refresher course.

Motions for Rehearing

The Committee considered three (3) motions for rehearing:

1. Movant filed a timely Motion for Rehearing in this matter. Movant states she had to move to avoid domestic violence from spouse. Movant does not have explanation for the positive test for methamphetamine in urine (test was a pre-employment drug screen). Denies using drugs intentionally. It was the Committee's decision to **grant** the motion, as the Movant provided information sufficient to comply with Board Rule 213.16(j).
2. Movant filed an untimely Motion for Rehearing in this matter. Notice of hearing was signed for by Movant. She states she does not have any money. Movant states she cannot comply with the Order because it is too expensive. 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 an untimely Motion for Rehearing in this matter. Movant has not lived at address of record for over 30 years. Notice was not sent to current address, but investigatory letter was sent to current address and returned as 'Unable to Forward'. Movant states she has not been able to review allegations that she made visits when client was not in skilled nursing unit. 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.

Orders Ratified:

One hundred forty-three (143) disciplinary agreed orders were approved.

Seven (7) reinstatement agreed orders were approved.

Thirty-eight (38) eligibility agreed orders were approved.

One hundred seven (107) default revocation orders were approved.

Five (5) deferred disciplinary action agreed orders were approved.