

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
August 19, 2014, AND September 9, 2014**

The Eligibility and Disciplinary Committee (Committee) convened on May 13, 2014 and June 10, 2014. This report collectively summarizes the matters and decisions made at the time of the meeting¹.

Petitioners for Licensure

The Committee considered five (5) petitions for licensure:

1. Petitioner filed a petition for licensure based on the offenses of Possession of Marijuana, a Class B Misdemeanor, Possession of Drug Paraphernalia, a Class C Misdemeanor and Resisting Arrest, Search or Transport, a Class A Misdemeanor, committed in May 2004. Petitioner entered a plea of guilty to the Possession of Drug Paraphernalia charge and was ordered to pay a fine, and entered a plea of No Contest to the other two charges and was placed on probation for a period of nine months. Additionally, Petitioner was arrested for Driving While Intoxicated, a Class B Misdemeanor, committed in July 2005. Petitioner entered a plea of No Contest and was sentenced to confinement in the Tarrant County Jail for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended and Petitioner was placed on probation for a period of twenty-four (24) months. In 2007, Petitioner was discharged from probation. Additionally, Petitioner was arrested for Assault Causing Bodily Injury, a Misdemeanor, committed in October 2006. Petitioner entered a plea of Guilty; as a result of the plea, the proceedings against Petitioner were deferred without entering an adjudication of guilt and Petitioner was placed on probation for a one (1) year. Further, Petitioner was arrested for Driving While Intoxicated, a Class B Misdemeanor, committed in 2012. Petitioner entered a plea of Guilty and was sentenced to confinement in the Williamson County Jail for a period of three hundred sixty-five (365) days; however, imposition of the sentence of confinement was suspended and Petitioner was placed on probation for a period of fifteen (15) months.

Petitioner, at the request of the Board, completed a chemical dependency evaluation. This evaluation indicated Petitioner would benefit from consideration of provisional licensure that includes active and enduring participation in the Texas Peer Assistance Program for Nurses. Subsequently, Petitioner provided a chemical dependency and psychological evaluation completed in April, 2014 that were obtained without Board request or involvement. The psychological testing

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

suggested that Petitioner does not suffer from any significant psychiatric disorder and is an unlikely candidate to have a substance abuse diagnosis, and should be issued an unencumbered license.

Petitioner and Petitioner's attorney, appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 1j, 4, 5, 6a, 10, 11, 12 X 2 years.

2. Petitioner filed a petition for licensure based on the Felony offense of Theft, committed in 1998. Petitioner entered a plea of Guilty and was convicted of the charge. As a result of the conviction, Petitioner was sentenced to confinement for a period of six (6) months with twenty (20) days credit given for time already served; however, imposition of the sentence of confinement was suspended, and Petitioner was placed on probation for a period of six (6) months, and ordered to pay a fine and court costs. Additionally, Petitioner was arrested for the Misdemeanor offense of Theft of Goods, committed in 1999. On or about February 29, 2000, Petitioner entered a plea of Guilty to and was convicted of Theft of Goods. As a result of the conviction, Petitioner was sentenced to confinement in the Parish Jail for a period of six (6) months; however, imposition of the sentence of confinement was suspended, and Petitioner was placed on probation for a period of one (1) year, and ordered to pay a fine and court costs. On or about February 28, 2001, Petitioner was discharged from probation and was fully pardoned for the offense. Further, Petitioner was arrested for the charges of Possession of a Controlled Substance, a Second Degree Felony, Tamper/Fabricate Physical Evidence, a Third Degree Felony and Possession of Marijuana, a State Jail Felony, committed in 2010. On or about March 2, 2011, Petitioner entered a plea of Guilty to Possession of a Controlled Substance. The prosecutor rejected the charges of Tamper/Fabricate Physical Evidence, and Possession of Marijuana without a pre-trial diversion. As a result of the plea, the proceedings against Petitioner were deferred without entering an adjudication of guilt and Petitioner was placed on probation for a period of four (4) years, and ordered to pay restitution along with a fine and court costs. On or about August 1, 2013, Petitioner was discharged early from probation.

Petitioner submitted documentation of a psychological evaluation indicating Petitioner is a qualified candidate for licensing.

Petitioner and Petitioner's attorney appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 1j, 4, 5, 6a, 10, 11, 12 X 1 year

3. Petitioner filed a petition for licensure based on two counts of the Second Degree Felony offense of Intoxication Manslaughter with Vehicle, committed in 2004. On or about April 26, 2006, Petitioner entered a plea of Guilty. As a result of the plea, the proceedings against Petitioner were deferred without entering an adjudication of guilt and Petitioner was placed on probation for a period of ten

(10) years. On or about May 16, 2014, Petitioner was granted an early release from probation.

Petitioner and Petitioner's attorney appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 1j, 4, 5, 6a, 10, 11, 12, 13a X 2 years.

4. Petitioner filed a petition for licensure based on having been addicted to and/or treated for the use of alcohol. Petitioner participated in the Army Substance Abuse Program didactic, individual and group therapy sessions. Petitioner completed the treatment and was clinically discharged from ASAP on February 16, 2011. Petitioner had previously appeared before the Committee at the August 19, 2014 meeting, at which time it was decided to continue the matter. Petitioner indicated he only enrolled in the program for promotional purposes within the Army. Staff attempted to verify Petitioner's representations by interviewing his previous supervisors.

Petitioner appeared by telephone. The Committee voted to **grant** the petition for licensure with no stipulations.

5. Petitioner filed a petition for licensure based on the Third Degree Felony offense of Evading Arrest/Detention with Vehicle, committed in 2012. On or about January 18, 2013, Petitioner entered a plea of Guilty. As a result of the plea, the proceedings against Petitioner were deferred without entering an adjudication of guilt and Petitioner was placed on probation for a period of two (2) years, and ordered to pay a fine and court costs. On September 26, 2013, deferred adjudication was terminated and the case was dismissed. On December 2, 2013, Petitioner was discharged from community supervision.

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

Petitioners for an Exception to a Previous Board Order

The Committee considered fifteen (15) petitions for an exception to a previous board order:

1. Petitioner requested an Exception to a previous Board Order dated December 8, 2009, requesting that her case be reevaluated and her stipulations removed. Petitioner completed all required coursework and has not been employed in nursing since the issuance of the Order, due to health issues. Petitioner indicated she would not be returning to clinical nursing. It was the Committee's decision to **deny** the request, however, the Committee granted the Petitioner a Limited License instead.
2. Petitioner requested an Exception to a previous Board Order dated August 14, 2012, requesting that he be allowed to practice direct patient care. Petitioner provided several letters of recommendation and proof of continuing education

hours he completed. It was the Committee's decision to **grant** the request with the following stipulations: 1b, 1j, 4, 5, 6, 6a 10, 11, 12, 13a, 14 X three years.

3. Petitioner requested an Exception to a previous Board Order dated February 14, 2012, requesting the removal of her remaining stipulations, including supervision. Petitioner had completed all educational requirements of her Order but provided no other mitigating circumstances. It was the Committee's decision to **deny** the request. The Order issued February 14, 2012, stands.
4. Petitioner requested an Exception to a previous Board Order dated August 6, 2013, requesting that she be issued a limited license or be allowed to practice unsupervised in a home health setting. Petitioner has paid the required fine, however Petitioner had not completed the required educational courses, and also has not been employed in nursing since the issuance of the Order. It was the Committee's decision to **deny** the request. The Order issued August 6, 2013, stands.
5. Petitioner requested an Exception to a previous Board Order dated March 8, 2011, requesting that she be issued an unencumbered license. Petitioner indicated she has been unable to find full time employment while under the current Order. Petitioner completed required education courses and paid the required fine, however no other mitigating factors were provided. It was the Committee's decision to **deny** the request. The Order issued March 8, 2011, stands.
6. Petitioner requested an Exception to a previous Board Order dated February 8, 2011, requesting that the two years she completed under a California Order be accepted as compliance with the Texas Order. Petitioner provided multiple documents, including work performance evaluations that indicated full compliance with the California Order. It was the Committee's decision to **grant** the request.
7. Petitioner requested an exception to a previous Board Order dated July 26, 2013, requesting that she be exempted from having to participate in the Texas Peer Assistance program for Nurses due to a change in diagnosis. Petitioner provided supporting documentation including a letter from her treating physician indicating her diagnosis has been changed. It was the Committee's decision to **grant** the request.
8. Petitioner requested an Exception to a previous Board Order dated December 13, 2011, requesting he be released from the requirement to enter TPAPN. Petitioner indicated he has had continued sobriety for four years and provided documentation including drug tests and proof of meeting attendance. It was the Committee's decision to **deny** the request. The Order issued December 13, 2011, stands.

9. Petitioner requested an Exception to a previous Board Order dated August 14, 2007, requesting that she be allowed to provide direct patient care. Petitioner paid the required fine and completed required education courses. Petitioner also provided reference letters. It was the Committee's decision to **grant** the request with the following stipulations: 1, 1b, 4, 5, 6a (may also be directly supervised by a physician), 10 X two years
10. Petitioner requested an Exception to a previous Board Order dated December 8, 2009, requesting that her stipulations be waived. Petitioner had completed one quarter of the two year supervisory period. Petitioner and Petitioner's attorney provided documents indicating that Petitioner's community supervision had been completed, as well as documentation of Petitioner's efforts to find employment. It was the Committee's decision to **deny** the request. The Order issued December 8, 2009, stands.
11. Petitioner requested an Exception to a previous Board Order dated April 28, 2011, requesting that she be issued an unencumbered license. Petitioner appeared by phone. Petitioner only had three months of supervision remaining on her order and indicated health issues are keeping her from completing the remaining quarter. It was the Committee's decision to **grant** the request.
12. Petitioner requested an Exception to a previous Board Order dated July 12, 2010, requesting that her stipulations be reevaluated. Petitioner did not appear. Based on the Petitioner's request and staff recommendation, it was the Committee's decision to **continue** this request until Petitioner completes a new forensic psychological evaluation with chemical dependency component.
13. Petitioner requested an Exception to a previous Board Order dated June 9, 2009, requesting that the direct supervision stipulation be removed. Petitioner and Petitioner's attorney provided many documents, including academic records, proof of completion of required educational courses, and petition for non-disclosure of criminal records. It was the committee's decision to **continue** this request until new mental and physical health evaluations can be submitted.
14. Petitioner requested an Exception to a previous Board Order dated May 14, 2013, requesting that she be issued an unencumbered license. Petitioner indicated that she felt very overwhelmed at the initial hearing that resulted in the 2013 order, and felt that there were inconsistencies and discrepancies related to her case. Petitioner completed all educational requirements of the Order. It was the Committee's decision to **deny** the request. The Order issued May 14, 2013, stands.
15. Petitioner requested an Exception to a previous Board Order dated February 11, 2014, requesting that he be allowed to work night shift and pass narcotics. Petitioner indicated his issues were with alcohol, not drugs or controlled substances. Petitioner also indicated his inability to find employment under his order. It was the Committee's decision to **deny** the request, however, should Petitioner be offered employment working a night shift, Executive Director

Katherine Thomas may review and grant request. Otherwise, the Order issued February 11, 2014, stands.

Motions for Rehearing

The Committee considered three (6) motions for rehearing:

1. Movant filed a timely Motion for Rehearing in this matter. Movant states he learned of revocation on May 27, 2014. Movant stated that he never received notices that were mailed to him at his address of record. He stated that the Board did have a current address. Movant admitted to having positive drug screens but claimed he had a prescription. Movant also indicated he believed he was finished with the Texas Peer Assistance Program for Nurses. 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. Movant stated he was in the middle of a divorce and failed to change his address. Movant admitted to having been charged with three separate incidences of Driving While Intoxicated; however, he claimed to not know why he would have answered 'no' to renewal questions regarding criminal history. 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 timely Motion for Rehearing in this matter. Movant did not appear. Movant stated he had expected his mail to be forwarded to him. Movant indicated that a witness was expected to recant their testimony related to his criminal charges, and that on the advice of his attorney he should not discuss the matter further. 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.
4. Movant filed an untimely Motion for Rehearing in this matter. Movant stated the residence at her address of record burned down and she did not change her address with the Board. Respondent denied all charges. It was the Committee's decision to **Grant** the motion, as the Movant provided information sufficient to comply with Board Rule 213.16(j).
5. Movant filed a timely Motion for Rehearing in this matter. Movant stated she left instructions with those living at her address of record to forward her mail; in her motion, Movant provided a temporary address. Movant admitted to consuming alcohol on two occasions prior to her shift but did not admit to a drinking problem in her motion. However, during the meeting, Movant advised she was in a residential treatment program. It was the Committee's decision to **Grant** the motion, as the Movant provided information sufficient to comply with Board Rule 213.16(j).
6. Movant filed an untimely Motion for Rehearing in this matter. Movant and Movant's attorney did not explain when actual notice was received. Movant explained she was in a custody battle over her children but otherwise did not explain why she failed to change her address. Movant stated she had a valid

prescription for all medications. 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 ninety (190) disciplinary agreed orders were approved.

Sixteen (16) reinstatement agreed orders were approved.

Thirty-seven (37) eligibility agreed orders were approved.

One hundred eight-teen (118) default revocation orders were approved.

Eight (8) deferred disciplinary action agreed orders were approved.