

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
FEBRUARY 14, 2012, AND MARCH 20, 2012**

The Eligibility and Disciplinary Committee (Committee) convened on February 14, 2012, and March 20, 2012. This report collectively summarizes the matters and decisions made at the time of the meeting¹.

Petitioners for Licensure

The Committee considered six (6) petitions for licensure:

1. Petitioner filed a petition for licensure based on the felony offense of possession of a controlled substance in 1988. Petitioner completed probation for this offense in 1992.

Petitioner appeared in person and was represented by counsel. The Committee voted to **grant** the petition for licensure without the issuance of an eligibility order, as Petitioner had already completed a course in nursing jurisprudence and ethics, which was the only eligibility requirement sought by the board.

2. Petitioner filed a petition for licensure based on a felony drug offense committed in 2005 and two subsequent misdemeanor drug offenses in 2006 and 2011. In 2006, Petitioner completed inpatient and outpatient treatment. Petitioner also provided evidence of AA attendance before and after her relapse in 2011.

Petitioner appeared in person. The Committee recommended Petitioner submit to a chemical dependency evaluation; and voted to **continue** the matter until Petitioner submits to a psychological evaluation and provides evaluation results to the board.

3. Petitioner filed a petition for licensure based on three guilty pleas to child abuse. Petitioner stated that the charges were brought in response to her spanking her children. Petitioner also provided a psychological evaluation which recommended that Petitioner participate in anger management courses/therapy.

Petitioner appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 4, 5, 6a, 10 and 13a (anger management) 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.

4. Petitioner filed a petition for licensure based on a state jail felony offense of evading arrest and DWI in 2007. The DWI was dismissed because Petitioner was found not guilty of this offense. Petitioner stated that she was not evading arrest, but rather didn't realize the officers were wanting her to stop.

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.

5. Petitioner filed a petition for licensure based on two misdemeanor offenses of DWI in 1996 and 2003. Petitioner provided a psychological evaluation that indicated that he would likely conduct himself in accordance with board rules and minimum standards.

Petitioner appeared in person and was represented by counsel. The Committee voted to **grant** the petition for licensure without the issuance of a board eligibility order.

6. Petitioner filed a petition for licensure based on two misdemeanor offenses of DWI in 2001 and 2002. (The first offense was reduced to Obstruction of Highway). Petitioner submitted proof of participation in counseling, including a letter from her counselor indicating a favorable prognosis should Petitioner continue with her current medication regiment for bipolar disorder and ADHD.

Petitioner appeared in person and was represented by counsel. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 4, 5, 6a, 7, 10 and 13a for a period of one year.

Petitioners for an Exception to a Previous Board Order

The Committee considered seven (7) petitions for an exception to a previous board order:

1. Petitioner requested an Exception to a previous Board Order issued in October, 2009, requesting early release from her TPAPN order so she could enroll in a RN program. It was the Committee's decision to **deny** the request, as the TPAPN order is consistent with Board policy.
2. Petitioner requested an Exception to a previous Board Order issued in August, 2011, requesting that she be allowed to practice unsupervised. It was the Committee's decision to partially **grant** the request by removing the supervision requirement and replacing it with a modified version of supervision that only requires an employer to provide the board with a report if the nurse is involved in an incident.
3. Petitioner requested an Exception to a previous Board Order issued in May, 2010, that granted Petitioner a Limited License, requesting that she be allowed to return to direct patient care. It was the Committee's decision to **continue** the matter until such time Petitioner obtains a neurological and psychological

evaluation by her neurologist indicating that she is safe to return to direct patient care.

4. Petitioner requested an Exception to a previous Board Order issued in November, 2010, that required supervision as a APRN, requesting that she be granted prescriptive authority. It was the Committee's decision to **deny** the request, as the stipulations and supervisory requirements of the Order do not support the granting of prescriptive authority.
5. Petitioner requested an Exception to a previous Board Order issued in December, 2011, based on alcohol use at work. Petitioner requested that the prohibition of multiple employers be removed from her Order. It was the Committee's decision to **deny** the request.
6. Petitioner requested an Exception to a previous Board Order issued in April, 2010, requesting that the Board issue her an unencumbered license, as she lives and works in Mississippi and has no plans of returning to Texas to complete her supervised practice. It was the Committee's decision to **deny** the request, as the action is taken against the Petitioner's compact privilege. The Committee instructed Staff to work with Petitioner in light of the fact that Texas can agree to accept completion of the Mississippi order as compliance with the Texas order.
7. Petitioner requested an Exception to a previous Board Order issued in November 2010, based on impaired behavior at work. Petitioner requested that the Board grant her a limited license. It was the Committee's decision to **grant** the request, as the public is protected if the Petitioner is not providing direct patient care.

Motions for Rehearing

The Committee considered ten (10) motions for rehearing:

1. Movant filed an untimely Motion for Rehearing in this matter. Movant did not provide an explanation for failing to receive his mail or for failing to respond. Movant stated that he incorrectly answered the online renewal eligibility questions because the online system would not let him proceed when he attempted to answer them correctly. 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 did not provide an explanation for failing to receive her mail, only stated that she did not receive notice. Movant stated that she invoked Safe Harbor for the incidents contained in the formal charges; however, the documentation that she provided lacked critical information to support her statements. 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 she did not receive notice of the final order until a later date and filed her motion within 20 days of actually learning of the revocation. Movant did not provide an explanation for failing to provide a reliable address. Movant has been arrested multiple times for theft and has repeatedly failed to disclose these arrests on her renewals. 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 moved out of state and didn't intend to update the Board with her new address. Movant did not deny the allegations against her and the allegations are those that would warrant license revocation. 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 a timely Motion for Rehearing in this matter. Movant stated that she was temporarily living at another location and was unaware of the Board's notices. Movant discussed her ability to practice nursing safely and addressed the Committee's concerns about her mental health diagnosis. Movant provided information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **grant** the motion.
6. Movant filed a timely Motion for Rehearing in this matter. Movant's attorney requested additional time to respond to charges on multiple occasions, but never actually sent in said responses. Upon learning of the attorney's failure to respond and that her license was revoked by default, Movant replaced her counsel of record who filed an amended Motion for Rehearing. Additionally, Movant provided a prescription for the positive drug screen violations alleged in the formal charges. 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 stated that her address hadn't changed, but that the post office was rerouted for a period of time. Movant denies allegations that she completed time slips for times that she did not work, but was unable to provide supporting evidence of her claims. 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 blamed the post office for not receiving her mail. Additionally, she failed to address her three charges of cocaine possession that were outlined in the formal charges. Therefore, 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. Movant did not receive her mail, as she is currently incarcerated. Movant was unable to provide a meritorious defense, as Chapter 53 of the Occupations Code requires her license to be revoked based on imprisonment. 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).

10. Movant filed an untimely Motion for Rehearing in this matter. Movant stated that he didn't receive his mail because he was homeless for a period of time. Movant addressed one of the charges of intemperate use, but not all of the other allegations related to drug diversion and positive drug screens. 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).

Orders Ratified:

One hundred ninety-four (194) disciplinary agreed orders were approved.

Thirteen (13) reinstatement agreed orders were approved.

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

One hundred seventy (170) default revocation orders were approved.

Three (3) deferred disciplinary agreed orders were approved.

**ADDENDUM TO THE
ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
FEBRUARY 14, 2012, AND MARCH 20, 2012**

In addition to the information provided in the Eligibility and Disciplinary (E&D) Committee Report for the February 14, 2012, and March 20, 2012 E&D meetings, the Committee took the following actions at the March 20, 2012 Meeting:

CONSIDERATION OF OFFERS OF SETTLEMENT:

The Committee considered two (2) Offers of Settlement.

The Committee considered an offer of settlement, convened in Executive Session pursuant to 551.071(1), Texas Government Code, to discuss settlement of pending or contemplated litigation. The Committee convened in open meeting and voted to accept a board agreed order reprimanding the Respondent's license.

The Committee considered an offer of settlement, convened in Executive Session pursuant to 551.071(1), Texas Government Code, to discuss settlement of pending or contemplated litigation. The Committee convened in open meeting and voted to accept a board agreed order reinstating the Respondent's license.