

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
AUGUST 9, 2011, AND SEPTEMBER 13, 2011**

The Eligibility and Disciplinary Committee (Committee) convened on August 9, 2011, and September 13, 2011. This report collectively summarizes the matters and decisions made at the time of the meeting¹.

Petitioners for Licensure

The Committee considered one (1) petition for licensure:

1. Petitioner filed a petition based on a felony offense of burglary of a building with intent to commit theft, in which in August 2007 he pled no contest, and was placed on probation for a period of two years.

Petitioner appeared in person. The Committee voted to **deny** the petition for licensure, as enough time had not passed since the conviction to grant the Petitioner licensure, pursuant to the Disciplinary Guidelines for Criminal Conduct.

Petitioners for an Exception to a Previous Board Order

The Committee considered twelve (12) petitions for an exception to a previous board order:

1. Petitioner was issued an agreed order in December 2009 in response to several violations of the NPA that occurred while working in the home health field. Petitioner requested an exception to this board order, requesting that she be allowed to work at a home health agency for the remainder of her stipulation period. It was the Committee's decision to **deny** Petitioner's request, as the board order is consistent with the Board's Disciplinary Matrix and Board precedent and Petitioner failed to demonstrate any facts or rationale for granting the exception.
2. Petitioner received an eligibility agreed order in June 2010 for her past criminal history related to substance abuse. Petitioner requested that the stipulations be removed or modified, or the Board issue a Nunc Pro Tunc Order, as the criminal acts occurred over eleven years ago. It was Committee's decision to **continue** the matter until Petitioner voluntarily obtains a chemical dependency evaluation that may impact the Board's decision.

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

3. Petitioner requested that he be issued a Limited License, in lieu of completing his agreed order issued in August 2009, which required him to provide direct patient care. Petitioner did not appear nor provide any explanation as to why he was requesting the Limited License. Therefore, it was the Committee's decision to **deny** the Petitioner's request.
4. Petitioner was issued an agreed order in May 2009 in response to pleading guilty to a felony offense of fraudulently possessing a controlled substance and/or prescription. Petitioner requested an exception to the order, requesting that she be allowed to practice in home health. It was the Committee's decision to **deny** the request, as the order is consistent with Board policy.
5. Petitioner was issued an eligibility agreed order in January 2009 based on a series of felony convictions involving substance use and distribution. Petitioner requested relief from the eligibility order, requesting that she be allowed to practice unsupervised. Petitioner had only completed one quarter of three years of supervised practice; and, it was the Committee's decision to **deny** the request.
6. Petitioner requested that he be allowed multiple employers in nursing while under a board order issued in May 2011. Petitioner provided evidence that two specific employers were willing to accommodate all the stipulations of his order independently, should he be allowed to work for both employers. It was the Committee's decision to **grant** a portion of the request by permitting an exception for the two named employers, provided full compliance with the order by each facility.
7. Petitioner requested an exception to her Limited License issued in October 2007, 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: 1 (refresher course), 1b, 1j, 4, 5, 6, 6a, 7-12 for a period of two years.
8. Petitioner requested an exception to an agreed order issued in March 2007, requesting that the Board remove the remainder of her stipulations. Petitioner appeared by telephone. It was the Committee's decision to **deny** Petitioner's request, as the Petitioner did not provide a compelling reason to excuse the last six months of monitoring.
9. Petitioner requested an exception to an agreed order issued in December 2010, requesting that several stipulations be removed to allow the Petitioner to work on a surgical team. The Petitioner provided evidence that his current employer offered him this position and provided documentation in support of his request. After due consideration, it was the Committee's decision to **grant** a portion of the request and allow the Petitioner to be indirectly supervised for the remainder of the stipulation period, work on the night shift, and work in the area of critical care solely while employed in this role with his current employer.

10. Petitioner requested an exception to a previous board order issued August 2010, requesting that she be allowed to administer controlled substances. It was the Committee's decision to **deny** the request, as the Petitioner has successfully worked as a nurse under her order and only had six more months to complete. Further, the Petitioner did not supply a specific reason for requesting the exception, other than wanting more flexibility.
11. Petitioner requested an exception to an eligibility order issued August 2008, requesting that several stipulations be removed and/or modified. Petitioner had a history of impairment at work that led to a five-year order from another state and an eligibility order in Texas. The Petitioner's order is consistent with Board policy and the Petitioner did not provide sufficient job performance evaluations to justify exceptions; therefore, it was the Committee's decision to **deny** the request.
12. Petitioner had a history of prior board orders and is currently being monitored under a Reinstatement order, following a default revocation for failing to enter into the TPAPN program. Additionally, Petitioner underwent a psychological evaluation that indicated that the Petitioner needed supervised practice and drug screening while she transitioned back into practice. Petitioner requested an exception to this order, requesting that she be allowed to practice in home health. Because the Petitioner's history evidences a need for supervision and she has a history of non-compliance with board orders, it was the Committee's decision to **deny** the request.

Motions for Rehearing

The Committee considered seven (7) motions for rehearing:

1. Movant filed a Motion for Rehearing within 20 days of receiving notice of the final order revoking his license (revoked by default). However, Movant admitted to the allegations in the formal charges, although he stated that he mistakenly answered "no" to eligibility questions related to current investigations. Movant received notice of the formal charges and the final order, although the notice of hearing was marked "unclaimed." 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.
2. Movant filed a timely Motion for Rehearing in this matter. However, Movant did not provide an explanation as to why she did not receive her mail, nor did she provide a meritorious defense to the formal charges. The allegations in the formal charges relate to alcohol use at work, and the Movant did not provide an adequate response to these allegations. 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's license was revoked by default for non-compliance with her board order. Movant stated that her address was correct, but someone else at the residence must have received the mail and failed to notify her. Additionally, Movant made arrangements to become

- compliant with her order. It was the Committee's decision to **grant** the motion, as the Movant provided information sufficient to comply with Board Rule 213.16(j).
4. 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 stated that her address was correct, but provided no explanation as to why she didn't receive her mail. Movant seemed to admit to the allegations in the formal charges, but argued that even if the allegations were true, her license should not be revoked for said offenses. 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 her claim of actual notice. Movant stated that she changed her address; however, the Board's records do not indicate that she provided the correct address on her renewal. Movant did not deny the allegations, but she did provide mitigating factors. 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 a timely Motion for Rehearing in this matter. Movant stated that she timely changed her address with the Board. The Movant's motion did not contain a meritorious defense to the allegations, but Movant provided additional information at the Committee meeting regarding her compliance with TPAPN. 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 moved around often the past year and did not update her address. Additionally, Movant is not in a position to become compliant with her order as she has no money to pay her fine or take the required classes. 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 eight (108) disciplinary agreed orders were approved.

Seven (7) reinstatement agreed orders were approved.

Forty-three (43) eligibility agreed orders were approved.

One hundred twenty-seven (127) default revocation orders were approved.

Nine (9) deferred disciplinary agreed orders were approved.