

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR  
November 13, 2012, AND December 18, 2012**

The Eligibility and Disciplinary Committee (Committee) convened on November 13, 2012 and December 18, 2012. This report collectively summarizes the matters and decisions made at the time of the meeting<sup>1</sup>.

**Petitioners for Licensure**

The Committee considered five (5) petitions for licensure:

1. Petitioner filed a petition for licensure based on the state jail felony offense of Theft \$1500 to \$20,000 committed in 2009. Petitioner pled Nolo Contendere. As a result of the plea, the proceedings against Respondent were deferred without entering an adjudication of guilt, and Respondent was placed on probation for a period of two (2) years, and ordered to pay court costs. On or about August 30, 2010, the case was terminated early and the cause thereby dismissed. 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: 1b, 1j, 4, 5, 6, 6a, 10 X 2 years.

2. Petitioner filed a petition for licensure based on the felony offense of Accessory to Robbery committed in 2000, the misdemeanor offense of Unlawful Use of a Telephone committed in 2000, the felony charge of Criminal Damage to Property Over \$1000 committed in 2000, and the misdemeanor offense of Driving Under the Influence, committed in 2001. For the first felony charge in 2000, the complaint was dismissed. For the second misdemeanor charge in 2000, Petitioner entered a plea of No Contest; and was sentenced to confinement for a period of three hundred sixty-four (364) days; however, imposition of the sentence of confinement was suspended on condition that Petitioner complete forty (40) hours of community service and abide by a curfew for ninety (90) days. On or about June 1, 2000, Petitioner satisfied all conditions. For the third felony charge in 2000, Petitioner was found Guilty and was convicted of the reduced charge of Criminal Damage to Property Under \$1000, a misdemeanor offense. As a result of the plea, Petitioner was sentenced to confinement for a period of one hundred eighty (180) days; however, imposition of the sentence of confinement was suspended and Petitioner was

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

placed on unsupervised probation for a period of one hundred eighty (180) days. On or about November 14, 2000, Petitioner was discharged from probation. For the misdemeanor offense charge in 2001, Petitioner entered a plea of No Contest to Aggravated Driving While Intoxicated-Alcohol. As a result of the plea, Petitioner was sentenced to confinement for a period of seventy-five (75) days with seventy-three (73) days suspended for a jail term of two (2) days. There has been no other criminal conduct since 2001. Petitioner holds or has held a license in the state of New Mexico.

Petitioner appeared in person. The Committee voted to **grant** the petition for licensure without the need for an Agreed Order.

3. Petitioner filed a petition for licensure based on the felony offenses of Possession with Intent to Distribute and Carrying a Firearm to a Drug Trafficking Crime committed in 2000. Petitioner was convicted of both charges. Petitioner was sentenced to seventy-eight (78) months in Federal Prison followed by five (5) years supervised release. 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 **deny** the petition for licensure.

4. Petitioner filed a petition for licensure based on his self-referral to the Army Substance Abuse Program (ASAP). On or about October 12, 2010 Petitioner was screened and provided a provisional diagnosis. Petitioner was enrolled in ASAP on November 19, 2010, following a Command referral. On or about January 25, 2011, Petitioner was discharged from ASAP with successful completion. 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 without the issuance of a Board Order.

5. Petitioner filed a petition for licensure based on the felony offense of Grand Theft in 1992. Petitioner was convicted of the offense. Petitioner was placed on probation for two years. On or about May 11, 2000, the Court reduced the offense to a misdemeanor after given proof of completion of probation, the case was dismissed and the conviction was set aside. Petitioner holds or has held a license in the state of California.

Petitioner appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b.

#### **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 requested an Exception to a previous Board Order issued in July, 2011, requesting that her probation be terminated or stipulation number six of

the order be lifted. It was the Committee's decision to **deny** the request. The order issued July, 2011, stands.

2. Petitioner requested an Exception to a previous Board Order issued in February, 2012, requesting that she be allowed to practice direct patient care. It was the Committee's decision to **grant** the request under the following conditions: Within one year of the date of this order, Petitioner shall successfully complete a board approved course in nursing jurisprudence and ethics and complete the NCSBN course Critical Thinking. Should Petitioner choose to practice as a nurse in Texas, Petitioner will provide direct patient care and practice in a hospital, nursing home, or other clinical setting under the following stipulations for three years of employment: Petitioner shall notify present/future employers of the board order; shall submit notification of employment; and shall provide employer reports; Petitioner shall have direct supervision for the first year of employment and indirect supervision for the remainder of the order with employment restrictions for the duration of the stipulation period. Petitioner shall abstain from drugs and alcohol and submit to random drug screens.
3. Petitioner requested an Exception to a previous Board Order issued in May, 2009, requesting that his order be modified in regards to monitoring, restrictions on work and random drug screens. It was the Committee's decision to **deny** the request. The order issued May, 2009, stands.
4. Petitioner requested an Exception to a previous Board Order issued in February, 2012, requesting that she be allowed to practice direct patient care. It was the Committee's decision to **grant** the request under the following conditions: Petitioner shall not have multiple employers, and Petitioner shall have incident reporting for one year.
5. Petitioner requested an Exception to a previous Board Order issued in January, 2006, requesting that he be allowed to work without supervision. It was the Committee's decision to **deny** the request. The order issued January, 2006, stands.
6. Petitioner requested an Exception to a previous Board Order issued in July, 2011, requesting that she be issued a Limited License. It was the Committee's decision to **grant** the request.
7. Petitioner requested an Exception to a previous Board Order issued in May, 2011 requesting that she be allowed to practice in a home health or hospice setting. It was the Committee's decision to **grant** the request under the following conditions: the Agreed Order shall be modified to reflect incident reporting, not general supervision.
8. Petitioner requested an Exception to a previous Board Order issued in March, 2012 requesting that he be issued a clear license. It was the Committee's

decision to **deny** the request with the exception that he may submit a special request for approval to Katherine Thomas regarding agency employment, provided the supervisory stipulations can be met through contract employment.

9. Petitioner requested an Exception to a previous Board Order issued in November, 2009 requesting that she be allowed to work the night shift. It was the Committee's decision to **grant** the request under the following conditions: Petitioner may work the night shift provided she first submits a potential employment opportunity to Katherine Thomas for approval that details employment offer and otherwise meets stipulations of the Agreed Order.
10. Petitioner requested an Exception to a previous Board Order issued in April, 2012, requesting that he be allowed to provide direct patient care. It was the Committee's decision to **deny** the request. The order issued April, 2012, stands.
11. Petitioner requested an Exception to a previous Board Order issued in December, 2011, requesting that his remaining stipulations be removed. It was the Committee's decision to **deny** the request. The order issued December, 2011, stands.
12. Petitioner requested an Exception to a previous Board Order issued in April, 2012, requesting that she be allowed to work for multiple employers and be granted approval to work in New Mexico. It was the Committee's decision to **deny** the request. The order issued April, 2012, stands.

### **Motions for Rehearing**

The Committee considered seven (7) motions for rehearing:

1. Movant filed a timely Motion for Rehearing in this matter. Movant provided no explanation for failure to receive notice. Received Formal Charges by his own admission, but does not explain lack of "unclaimed" correspondence. Movant blames ex-wife for issues leading to formal 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).
2. Movant filed an untimely Motion for Rehearing in this matter. Movant states that she didn't receive notices, but doesn't explain not changing addresses. Currently living in a home for women. Movant admits to drug use and relapse in the past. 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 provides no explanation of failure to answer. Does not provide discussion about lack of change of address or where he lives currently. Movant denies allegation without explanation. 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 an untimely Motion for Rehearing in this matter. Movant stated States that he had to move from his house because of eviction and that he did file a written response. Movant states that he did fail to disclose his crime for possession of marijuana. 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. Movant states that the postal service is inconsistent and that her daughter has filed a complaint. Movant has had a back fracture and took Vicodin for pain from an old prescription. She says she never took methadone. She does not address the missing Vicodin from work. 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 doesn't give reason for not having address of record change. Movant states all his violations were based on Topomax toxicity. 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).
7. Movant filed an untimely Motion for Rehearing in this matter. Movant provided change of address to post office and assumed all mail would be forwarded. Movant discussed formal charges in person during the hearing. 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 forty-seven (147) disciplinary agreed orders were approved.

Thirteen (13) reinstatement agreed orders were approved.

Forty-eight (48) eligibility agreed orders were approved.

One hundred nine (109) default revocation orders were approved.

Five (5) deferred disciplinary agreed order were approved.