

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
May 14, 2013, AND June 11, 2013**

The Eligibility and Disciplinary Committee (Committee) convened on May 14, 2013 and June 11, 2013. This report collectively summarizes the matters and decisions made at the time of the meeting¹.

Petitioners for Licensure

The Committee considered three (5) petitions for licensure:

1. Petitioner filed a petition for licensure based on the Class B misdemeanor offense of Possession of Marijuana committed in February 1998, the Class B misdemeanor offense of Theft by Check committed in March of 1998, the misdemeanor Theft by Check offense committed in October 1999, the Possession of a Stolen Firearm offense committed in August 2000, the second degree felony offense of Burglary of Habitation committed in December 2000, the state jail felony offense of Theft of Property committed in November 2000, the Class B misdemeanor offense of Theft of Property committed in March 2001, the second degree felony offense of Burglary of a Habitation committed in April 2004, the Class A misdemeanor offense of Assault Causes Bodily Injury Family Member committed in May 2007 and the Class B misdemeanor offense of Possession of Marijuana committed in March 2011. The charges from 1998 were combined; Petitioner pled 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 one (1) year, and ordered to pay a fine and court costs. On or about March 23, 1999, Petitioner was discharged from probation. For the October 1999 Theft by check charge, Petitioner pled guilty. As a result of the conviction, Petitioner was sentenced to confinement in the Smith County Jail for a period of one (1) days, and was ordered to pay a fine and court costs. For the August 2000 Possession of a Stolen Firearm charge, Petitioner was charged in a different case and this charge was dismissed. For the December 2000 Burglary of Habitation charge, Petitioner pled 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 or about January 20, 2012, Petitioner was discharged from probation. For the November 2000 Theft of Property charge, Petitioner pled 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 five (5) years, and ordered to pay restitution, along with a fine and court costs. On or about April 24, 2006, Petitioner was

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

discharged from probation. For the March 2001 Theft of Property charge, Petitioner pled 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 six (6) months, and ordered to pay a fine and court costs. For the April 2004 Burglary of Habitation charge, Petitioner was released without prosecution. For the May 2007 Assault Causes Bodily Injury-Family Member charge, Petitioner was subsequently charged with Assault/Family Violence. The charge was dismissed without prejudice and in the interest of justice. For the March 2011 Possession of Marijuana Charge, Petitioner pled guilty to Possession of Drug Paraphernalia, a Class C misdemeanor offense. 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 ninety (90) days, and ordered to pay a fine and court costs. Petitioner was not enrolled in a nursing program at the time of Petition.

Petitioner did not appear. The Committee took no action.

2. Petitioner filed a petition for licensure based on the Class B misdemeanor offense of Driving While Intoxicated and the Class B misdemeanor offense of Possession of Marijuana committed in 2008 and the Class B misdemeanor offense of Driving While Intoxicated committed in 2010. The 2008 offense of Driving While Intoxicated was dismissed and reclassified as Obstruction of Highway Passageway, a Class B misdemeanor offense. Petitioner pled Nolo Contendere to the charges of Obstruction of a Highway Passageway and Possession of Marijuana and 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 placed on probation for a period of eighteen (18) months. On or about August 12, 2010, Petitioner was discharged from probation. The 2010 offense of Driving While Intoxicated was dismissed and reclassified as Obstruction of a Passageway. For the 2010 misdemeanor offense, Petitioner pled Nolo Contendere and was convicted of the charge Obstruction of a Passageway. As a result of the conviction, 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 placed on probation for a period of two (2) years. On or about February 22, 2012, Petitioner was discharged from probation. 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 to be imposed after licensure: 1b, 1j (critical thinking), 4, 5, 6a, 10, 11, and 12 X 2 years.

3. Petitioner filed a petition for licensure based on the misdemeanor offense of Driving While Intoxicated and Fourth Degree Driving While Impaired committed in 2007. Petitioner pled guilty and was convicted of Driving While Intoxicated. As a result of the conviction, Petitioner was sentenced to confinement for a period of ninety (90) days; however, imposition of the sentence of confinement was suspended and Petitioner was placed on probation for a period of one (1) year. On or about September 8, 2009, Petitioner successfully completed probation. Petitioner holds or has held a license in professional nursing in the State of North Dakota and California and a license in vocational nursing in the State of North Dakota.

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

4. Petitioner filed a petition for licensure based on the Class B misdemeanor offense of Possession of Marijuana committed in February 1998, the Class B misdemeanor offense of Theft by Check committed in March of 1998, the misdemeanor Theft by Check offense committed in October 1999, the Possession of a Stolen Firearm offense committed in August 2000, the second degree felony offense of Burglary of Habitation committed in December 2000, the state jail felony offense of Theft of Property committed in November 2000, the Class B misdemeanor offense of Theft of Property committed in March 2001, the second degree felony offense of Burglary of a Habitation committed in April 2004, the Class A misdemeanor offense of Assault Causes Bodily Injury Family Member committed in May 2007 and the Class B misdemeanor offense of Possession of Marijuana committed in March 2011. The charges from 1998 were combined; Petitioner pled 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 one (1) year, and ordered to pay a fine and court costs. On or about March 23, 1999, Petitioner was discharged from probation. For the October 1999 Theft by check charge, Petitioner pled guilty. As a result of the conviction, Petitioner was sentenced to confinement in the Smith County Jail for a period of one (1) days, and was ordered to pay a fine and court costs. For the August 2000 Possession of a Stolen Firearm charge, Petitioner was charged in a different case and this charge was dismissed. For the December 2000 Burglary of Habitation charge, Petitioner pled 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 or about January 20, 2012, Petitioner was discharged from probation. For the November 2000 Theft of Property charge, Petitioner pled 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 five (5) years, and ordered to pay restitution, along with a fine and court costs. On or about April 24, 2006, Petitioner was discharged from probation. For the March 2001 Theft of Property charge, Petitioner pled 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 six (6) months, and ordered to pay a fine and court costs. For the April 2004 Burglary of Habitation charge, Petitioner was released without prosecution. For the May 2007 Assault Causes Bodily Injury-Family Member charge, Petitioner was subsequently charged with Assault/Family Violence. The charge was dismissed without prejudice and in the interest of justice. For the March 2011 Possession of Marijuana Charge, Petitioner pled guilty to Possession of Drug Paraphernalia, a Class C misdemeanor offense. 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 ninety (90) days, and ordered to pay a fine and court costs. Petitioner was not enrolled in a nursing program at the time of Petition.

The Committee voted to **grant** the petition for licensure with the following stipulations to be imposed after licensure: 1b, 1j, 4, 5, 6, 6a, 10, 11, 12 x 2 years.

5. Petitioner filed a petition for licensure based on the two counts of Armed Robbery and two counts of Aggravated Kidnaping committed in 1994. Petitioner was found guilty of Accessory to Armed Robbery, two counts of Armed Robbery and two counts of Second Degree Kidnaping. As a result of the finding of guilt, Petitioner was sentenced to imprisonment for a period of five (5) years. On or about May 28, 1999, Petitioner met the requirements for an automatic first offender pardon and was fully pardoned for the offense by the State of Louisiana Department of Public Safety and Corrections, Division of Probation and Parole. Petitioner underwent a forensic evaluation which indicated Petitioner does not show the judgment necessary to function in the nursing profession.

The Committee voted to **deny** the petition for licensure.

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 August, 2012, requesting the removal of the remainder of his stipulations. It was the Committee's decision to **deny** the request. The order issued August, 2012, stands.
2. Petitioner requested an Exception to a previous Board Order issued in June 2010, requesting that her stipulations be removed or modified without having to complete the required evaluation. It was the committee's decision to allow the petitioner permission to complete an evaluation with a Licensed Chemical Dependency Counselor, and should the evaluation indicate no ongoing issue, the Executive Director is authorized to close this matter. The order issued June, 2010, stands.
3. Petitioner requested an Exception to a previous Board Order issued in October, 2004, requesting that the completion of her Louisiana Board Order satisfy the requirements of her Texas board order. It was the Committee's decision to **grant** the request.
4. Petitioner requested an Exception to a previous Board Order issued in December, 2012, requesting that she be allowed to continue working for a home health agency. It was the committee's decision to **deny** the request. The order issued December 2012, stands.
5. Petitioner requested an Exception to a previous Board Order issued in July, 2011, requesting that she be allowed to provide direct patient care. It was the Committee's decision to **deny** the request. The order issued July, 2011, stands.
6. Petitioner requested an Exception to a previous Board Order issued in November 2010, requesting that the remainder of his stipulations, mainly the stipulation requiring indirect supervision, be lifted. It was the Committee's decision to **grant** the request.

7. Petitioner requested an Exception to a previous Board Order issued in January, 2008, 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 must complete a refresher course and enroll in TPAPN for two years.
8. Petitioner requested an Exception to a previous Board Order issued in June 2011, requesting that she be allowed to work nights, take calls or work agency or home health. It was the Committee's decision to **deny** the request. The order issued June, 2011, stands.
9. Petitioner requested an Exception to a previous Board Order issued in January 2013, requesting that he be allowed to complete his required courses online. It was the Committee's decision to **deny** the request, however Petitioner will be allowed additional time to complete the required courses, provided he places his license in Inactive status. Upon reactivation, Petitioner will be allowed one year to complete the required courses. The order issued January, 2013, stands.
10. Petitioner requested an Exception to a previous Board Order issued in July, 2012, requesting that she be released from her stipulations and not be required to enroll in TPAPN. It was the Committee's decision to **grant** the request under the following conditions: 1b, 1j, 4, 5, 6a, 10, 11, 12, and 14 X 2.
11. Petitioner requested an Exception to a previous Board Order issued in December, 2009, requesting that he be released from the TPAPN program. Petitioner had completed approximately two and a half years of drug screenings but had been unable to have one year of complete employment. It was the Committee's decision to **grant** the request.
12. Petitioner requested an Exception to a previous Board Order issued in April, 2013, requesting that she be indirectly supervised by a nurse that is not in the same facility but is readily available. It was the Committee's decision to **deny** the request. The order issued April, 2013, stands.
13. Petitioner requested an Exception to a previous Board Order issued in January 2012, requesting that she be issued an unencumbered license. It was the Committee's decision to **deny** the request. The order issued January, 2012, stands.
14. Petitioner requested an Exception to a previous Board Order issued in September 2012, requesting assistance from the Board regarding the stipulations on his license. It was the Committee's decision to **deny** the request. The order issued September, 2012, stands.
15. Petitioner requested an Exception to a previous Board Order issued in September 2012, requesting that he be allowed to be supervised by a physician. It was the Committee's decision to **grant** the request with the following conditions: Petitioner must reactivate his license and be supervised by only one specific physician. All other stipulations remain.

16. Petitioner requested an Exception to a previous Board Order issued in November 2012, requesting that she be issued an unencumbered license. It was the Committee's decision to **deny** the request. The order issued November, 2012, stands.

Motions for Rehearing

The Committee considered three (3) motions for rehearing:

1. Movant filed an untimely Motion for Rehearing in this matter. Movant moved in December 2012, but until March, 2013, no indication that Movant had moved. Movant claims innocence regarding underlying charge of DWI (Third). Indicted on or about March 2013. Board relied on officer affidavit that Movant admitted drinking. 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 an untimely Motion for Rehearing in this matter. Movant stated motion is timely based on certification of service. No explanation about not receiving order after February, 2013. Motion may be considered timely if actual notice is used. Movant has maintained address for several years. Movant had answered the Board's original notice of allegations in October 2012, but did not pick up mail subsequent mail when the Formal Charges and Notice of Hearing was sent. No explanation for not picking up mail. Address of record is correct. Movant states she did not knowingly allow non-licensed person to work as a nurse. It was the Committee's decision to **grant** the motion, as the Movant provided information sufficient to comply with Board Rule 213.16(j).
3. Movant filed an untimely Motion for Rehearing in this matter. Motion untimely, except that Movant received actual notice of Order on April 15th. Respondent was informed of Order by Florida Board. Movant has not updated his address. Movant answered truthfully to his renewal application and states he is compliant with the Florida monitoring 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).

Orders Ratified:

One hundred forty-three (157) disciplinary agreed orders were approved.

Seven (9) reinstatement agreed orders were approved.

Thirty-eight (35) eligibility agreed orders were approved.

One hundred seven (86) default revocation orders were approved.

Five (2) deferred disciplinary action agreed orders were approved.