

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR  
November 12, 2014, AND December 9, 2014**

The Eligibility and Disciplinary Committee (Committee) convened on November 12, 2014 and December 9, 2014. 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 offense of Theft of Property, a State Jail Felony offense, committed in May 2010. Petitioner entered a plea of guilty to Theft. 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 eight (8) years. On or about January 24, 2013, Petitioner was discharged from probation.

Petitioner indicated she was young when these incidents occurred, and that she met all terms of her probation successfully.

Petitioner appeared in person. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 1j, 4, 5, 6a, 10 x 2 years.

2. Petitioner filed a petition for licensure based on the Non-Judicial Article 15 by the United States Army for Wrongful Possession and Use of Marijuana and Wrongful Possession and Use of LSD, committed in September 1995. As a result, Petitioner was reduced in rank to Private E1; forfeited \$427.00 in pay per month for two months; assigned to extra duty for forty-five (45) days; restriction for forty-five (45) days, and given an Oral Reprimand. Additionally, Petitioner was arrested for the Misdemeanor offense of Driving While Intoxicated, committed in August 2011. On or about October 27, 2011, Petitioner entered a plea of Guilty to and was convicted of the reduced offense of Reckless Driving, a misdemeanor offense. As a result of the conviction, Petitioner was ordered to pay a fine and have their driver's license suspended for sixty (60) days.

Petitioner submitted documentation of a psychological evaluation. The evaluation shows no problem with drugs or alcohol in the past year. The results of the evaluation indicate that Petitioner does not have a chemical dependency impairment that would interfere with the ability to provide nursing care with skill

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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.

and safety to patients. Petitioner is able to fulfill the responsibility of a nurse and to act in a professional manner.

Petitioner and Petitioner's attorney appeared in person. The Committee voted to **grant** the petition for licensure with no stipulations.

3. Petitioner filed a petition for licensure by endorsement based on the Felony offense of Causing Death by Dangerous Driving, committed in April, 2008. On or about June 6, 2009, Petitioner entered a plea of Guilty to and was convicted of Causing Death by Dangerous Driving. As a result of the conviction, Petitioner was sentenced to imprisonment for a period of fifty-one (51) weeks; however, imposition of the sentence of imprisonment was suspended and Petitioner was placed on probation for a period of twenty-four (24) months.

Petitioner provided several letters of recommendation, indicating Petitioner's practice is of the highest professional quality and has been an exemplary employee. Petitioner has practiced as a registered nurse for over fifteen years.

Petitioner appeared by telephone. The Committee voted to **grant** the petition for licensure with the following stipulations: 1b, 1j.

4. Petitioner filed a petition for licensure based on the Misdemeanor offenses of Theft of Property and Failure to Identify/Giving False/Fictitious Information, committed in February 2006. On or about March 1, 2006, Petitioner entered a plea of Guilty to Theft of Property. 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. On or about September 21, 2006, Petitioner was discharged from probation. Because of this conviction, the charge of Failure to Identify/Giving False/Fictitious Information was dismissed.

Additionally, Petitioner was arrested for the Misdemeanor offense of Possession of a Prohibited Weapon Switchblade/Knuckles, committed in February 2007. On or about February 27, 2007, Petitioner entered a plea of Guilty and was convicted Possession of a Prohibited Weapon Switchblade/Knuckles. As a result of the conviction, Petitioner was sentenced to confinement 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.

Additionally, Petitioner was arrested for the Misdemeanor offense of Theft of Property, committed in March 2008. On or about May 1, 2008, Petitioner entered a plea of Guilty to Theft. 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 nine (9) months, and ordered to pay a fine and court costs. On or about February 10, 2009, Petitioner was discharged from probation.

Additionally, Petitioner was arrested for the State Jail Felony Offense of Fraudulent Use and Possession of Identifying Information (Less Than Five Items), and the Misdemeanor offenses of Criminal Trespass and Failure to Identify Fugitive/Intent to Give False Information. On or about October 19, 2012, Petitioner entered a plea of Guilty/Nolo Contendere to Failure to Identify Fugitive/Intent to Give False Information. 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. On or about September 27, 2012, Petitioner entered a plea of Guilty to Fraudulent Use and Possession of Identifying Information (Less Than Five Items). 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 three (3) years, and ordered to pay court costs. On or about July 25, 2014, Petitioner was discharged from probation. The Criminal Trespass charge was dismissed.

Additionally, Petitioner was arrested for the State Jail Felony Offense of Tampering with a Government Record with Intent to Defraud/Harm. On or about August 31, 2012, Petitioner entered a plea of Guilty and was convicted of Tampering with a Government Record with Intent to Defraud/Harm. As a result of the conviction, Petitioner was sentenced to confinement in the Nacogdoches County Jail for a period of one (1) year; however, imposition of the sentence of confinement was suspended, and Petitioner was placed on probation for a period of two (2) years, and ordered to pay a fine and court costs.

On July 18, 2014, Petitioner was found ineligible for licensure as a vocational nurse by the Executive Director for the Texas Board of Nursing. A request for review was made related to the fact that it has been almost four years since Petitioner graduated from a vocational nursing program.

Petitioner and Petitioner's attorney appeared in person. The Committee voted to **deny** the petition for licensure.

5. Petitioner filed a petition for licensure based on the State Jail Felony offense of Theft, committed in June, 2009. On or about February 5, 2010, Petitioner entered a plea of Guilty to Theft. 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. On or about May 26, 2011, Petitioner was discharged from probation.

Petitioner submitted a forensic psychological evaluation. The results of the evaluation do not indicate that Petitioner has a psychological impairment, problem of character, or criminal propensity that would prevent Petitioner from providing care to patients with reasonable skill and safety commensurate with her training.

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 13a X 2 years

### Petitioners for an Exception to a Previous Board Order

The Committee considered fourteen (14) petitions for an exception to a previous board order:

1. Petitioner requested an Exception to a previous Board Order dated September 10, 2013, requesting that he be allowed to work in multiple positions and/or places of employment. A psychological evaluation completed in 2013 indicated Petitioner does not show any evidence that he should not be supervised closely. Multiple employers would not be conducive to close monitoring. It was the Committee's decision to **deny** the request. The Order issued September 10, 2013, stands.
2. Petitioner requested an Exception to a previous Board Order dated April 2, 2014, requesting that the Texas Nursing Jurisprudence and Ethics Course be waived. Petitioner provided no other mitigating factors other than no longer living in Texas. It was the Committee's decision to **deny** the request. The Order issued April 2, 2014, stands.
3. Petitioner requested an Exception to a previous Board Order dated January 19, 2012, requesting that she be allowed to practice in Texas. During the meeting, Petitioner informed the Committee she had voluntarily surrendered her license in Arkansas. It was the Committee's decision to **continue** the request until supplemental information is received from the Arkansas Board of Nursing. Petitioner has not been rescheduled.
4. Petitioner requested an Exception to a previous Board Order dated December 28, 2010, requesting relief from the Order. Petitioner has been enrolled in the Texas Peer Assistance Program for Nurses (TPAPN) for three years, but has been unable to find employment. It was the Committee's decision to **continue** the request until records concerning compliance with TPAPN could be received.

Petitioner was heard again at the December 9, 2014 meeting, where he request was denied. Please see item number eight.

5. Petitioner requested an Exception to a previous Board Order dated August 19, 2014, requesting that she be allowed to practice in direct patient care and continue to practice in her non-clinical position as a clinical software specialist. Petitioner provided positive performance reviews and indicated she would like to have the option to practice direct patient care, but it would not be her main focus. It was the Committee's decision to **grant** the request with the following stipulations: 1b, 1j, 4, 5, 6i, 10, 11, 12 X 1 year
6. Petitioner requested an Exception to a previous Board Order dated October 17, 2013, requesting that she be allowed to work home health. Petitioner has completed all required education courses and completed two quarters of monitoring with no issues. Additionally, Petitioner provided an offer of employment from a potential employer. It was the Committee's decision to **grant** the request, Petitioner may work home health with this one specific employer.

7. Petitioner requested an exception to a previous Board Order dated January 23, 2014, requesting that the courses she completed in Utah be credited toward the Texas Nursing Jurisprudence and Ethics course requirements. Petitioner appeared by phone. Petitioner was utilizing a multi-state compact license when the Texas Order was issued. Petitioner indicated traveling to Texas to complete the required course would be a hardship. Petitioner provided proof of completion of Utah requirements. It was the Committee's decision to **grant** the request and allow the Utah Order to fulfill the Texas Order.
8. Petitioner requested an Exception to a previous Board Order dated December 8, 2010, requesting relief from the Order. This matter was continued from the November Committee Meeting. Documents from the Texas Peer Assistance Program for Nurses were provided. It was the Committee's decision to **deny** the request. The Order issued December 8, 2010, stands.
9. Petitioner requested an Exception to a previous Board Order dated July 18, 2013, requesting that she be issued an unencumbered license. Petitioner submitted documentation indicating the criminal case underlying the issuance of the Order was dismissed. Petitioner has completed all education requirements, but has not been employed since the issuance of the Order. It was the Committee's decision to **deny** the request. The Order issued July 18, 2013, stands.
10. Petitioner requested an Exception to a previous Board Order dated December 18, 2012, requesting that he be allowed to work home health with one specific employer. Petitioner has completed all required courses but has not been employed since the issuance of the Order. No other mitigating factors were provided. It was the Committee's decision to **deny** the request. The Order issued December 18, 2012, stands.
11. Petitioner requested an Exception to a previous Board Order dated September 13, 2011, requesting that she be issued an unencumbered license. Petitioner has completed all required coursework, and one quarter of supervised practice. Petitioner indicated difficulty in finding work with the Order in place. It was the Committee's decision to **deny** the request. The Order issued September 13, 2011, stands.
12. Petitioner requested an Exception to a previous Board Order dated April 18, 2011, requesting that she be allowed to use her license in the role of a regional nurse consultant. Petitioner appeared by phone. During the meeting, Petitioner indicated she would like to have her limited license lifted and return to direct patient care. Petitioner currently resides in Michigan, but is interested in returning to Texas. Petitioner provided proof of continuing education as well as an offer of employment. It was the Committee's decision to **deny** the request as presented, however, a new request to return to the previous Order and lift the limited license restriction may be presented for consideration to the Executive Director's discretion.

13. Petitioner requested an Exception to a previous Board Order dated February 12, 2013, requesting that her stipulations be reviewed due to her Petitioner now residing in Hawaii. Petitioner appeared by phone. Petitioner indicated her spouse is active duty military, and she would not be able to comply with the Texas Order. Petitioner has completed all required coursework and paid the required fine. It was the committee's decision to **grant** this request, and allow Petitioner to fulfill the terms of the Order while employed with a federal facility (veteran's hospital).
14. Petitioner requested an Exception to a previous Board Order dated March 8, 2011, requesting that she be allowed to work in a home health agency. Petitioner completed all educational requirements of the Order. Petitioner indicated difficulty in finding employment other than with a home health agency. It was the Committee's decision to **deny** the request. The Order issued March 8, 2011, stands.

### **Motions for Rehearing**

The Committee considered five (5) motions for rehearing:

1. Movant filed a untimely Motion for Rehearing in this matter, however, motion may possible be considered timely if you look at the time she states she received notice. Movant did not appear. Movant states she learned of revocation on September 15, 2014. Movant stated that she was in the middle of a divorce and never received notice, because she forgot to change her address with the Board. Movant claimed medicine misappropriated from her place of employment was brought home by mistake. Movant did not address positive drug screens for methamphetamine and amphetamine. 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. Movant stated he unintentionally failed to update his address because he moved and then had several surgeries. Movant indicated his felony conviction for driving while intoxicated was due to a bad reaction to prescription medication. 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. Movant stated she does not understand why she did not receive her mail. Movant denies ever having an improper relationship with a Texas Department of Criminal Justice patient. 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, however, motion may be considered timely if you take the date of actual notice. Movant appeared by phone. Movant stated her physical address was not properly updated. Respondent denied she failed to assess a patient properly. 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 an untimely Motion for Rehearing in this matter. Movant failed to explain why all mail was returned 'unclaimed', the Board did have a current address. Movant denies leaving his shift without notifying appropriate personnel. Movant waited four months to file his Motion for Rehearing. 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 fifty-six (156) disciplinary agreed orders were approved.

Thirteen (13) reinstatement agreed orders were approved.

Thirty-three (33) eligibility agreed orders were approved.

One hundred fifty-six (156) default revocation orders were approved.

Five (5) deferred disciplinary action agreed orders were approved.

Five (5) KSTAR Pilot Program agreed orders were approved.