

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
March 8, 2016, AND May 10, 2016**

The Eligibility and Disciplinary Committee (Committee) convened on March 8, 2016 and May 10, 2016. This report collectively summarizes the matters and decisions made at the time of the meeting¹.

Petitioners for Licensure

The Committee considered four (4) petitions for licensure:

1. Petitioner filed a petition for declaratory order based on the offense of Count 1 DUI/ALCOHOL, and Count 2 DUI ALCOHOL/0.08 PERCENT, misdemeanor offenses committed on or about May 26, 2014 in Los Angeles, California. On or about October 27, 2014, the charges were dismissed in the Superior Court, Los Angeles County, California.

Additionally, Petitioner was enrolled in the outpatient program at the Army Substance Abuse Program (ASAP), Joint Base San Antonio-Fort Sam Houston, Texas, on May 6, 2015, following a self-referral over concern of his use of Dextromethorphan. Petitioner agreed to adhere to a treatment plan which consisted of complete abstinence of dextromethorphan/alcohol /psychoactive substances, individual and group counseling sessions, alcohol/drug education, and rehabilitation drug testing. Petitioner was released from ASAP in December 2015.

Petitioner provided several letters of support.

Petitioner appeared in person. The Committee voted to **grant** the Petitioner an unencumbered license.

2. Petitioner filed a petition for declaratory order based on the offense THEFT OF PROPERTY >=\$1500 <\$20K BY CHECK, a State Jail felony offense on or about July 8, 2011 in Houston, Texas. On or about October 6, 2011, Petitioner entered a plea of Guilty to THEFT >=\$1,500 <\$20K BY CHECK, a State Jail felony offense committed on July 8, 2011, in the 230th District Court of Harris County, Texas. 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. On or about August 6, 2013, Petitioner completed the terms and conditions of probation and was discharged.

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

On August 5, 2014, Petitioner was issued an Agreed Order by the Board of Pharmacy for the State of Texas, suspending her permit for a period of five (5) years. The disciplinary action was taken as a result of Petitioner's criminal history.

Petitioner provided several letters of recommendation and reference.

Petitioner appeared in person. The Committee voted to **grant** the petition with the following stipulations: NCSBN course Critical Thinking; Nursing Jurisprudence and Ethics; notify present/future employers of the board order; submit notification of employment; indirect supervision; and provide employer reports for a period of two years.

3. Petitioner filed a petition for declaratory order based on the offense of DWI, a misdemeanor offense committed on September 11, 2009. On or about March 4, 2011, Petitioner entered a plea of Nolo Contendere and was convicted of DWI, a misdemeanor offense in Travis County, Texas. As a result of the conviction, Petitioner was sentenced to confinement in the Travis County Jail for a period of fourteen (14) days, and ordered to pay a fine and court costs.

In addition, on or about March 4, 2011, Petitioner entered a plea of Guilty and was convicted of DWI, a misdemeanor offense committed on March 19, 2010, in Travis County, Texas. As a result of the conviction, Petitioner was sentenced to confinement in the Travis County Jail for a period of twelve (12) days, and ordered to pay a fine and court costs.

A chemical dependency evaluation was completed on the Petitioner on November 18, 2015. The evaluation noted that Petitioner has a criminal history of two arrests and convictions for DWI that occurred within a period of eight months, and that such a history is often indicative of individuals who are either dependent on alcohol or slow to learn from past mistakes. The evaluator recommended that Petitioner be supervised within the TPAPN program for one year. In addition Petitioner should attend AA meeting at least three times per week for six consecutive months. Petitioner should also have an active and ongoing relationship with a sponsor in the 12-step program that includes weekly face-to-face contact with her sponsor. Furthermore Petitioner should submit a random urinalysis on a monthly basis for two years.

Petitioner was offered an Agreed Eligibility Order for participation in TPAPN, but declined to sign the order.

Petitioner provided several letters of support.

Petitioner appeared in person. The Committee voted to **continue** the petition until Petitioner had an opportunity to review the chemical dependency evaluation.

4. Petitioner filed a petition for declaratory order based periods of increased and excessive alcohol use in the past. In February 2014, he enrolled in the intensive

outpatient program for alcohol abuse. In May 2014, he was voluntarily admitted to the due to ongoing heavy alcohol use.

A letter was submitted by Petitioner's psychiatrist, stating that Petitioner has been under his care since April 2013. Petitioner had been hospitalized in 2010 during his freshman year in college and was diagnosed with major depression with psychosis. Petitioner saw an outpatient psychiatrist from 2010 until 2013. In March 2013, Petitioner was admitted to an intensive outpatient program for depression and irritability. Petitioner was diagnosed with Mood Disorder Not Otherwise Specified, but suspected bipolar illness. His treating psychiatrist believes his diagnosis is likely Bipolar II Disorder.

The psychiatrist believes that Petitioner's prognosis is good as long as he remains in treatment. His emotional state is stable, as is his cognitive ability and mental status.

Petitioner was offered an Agreed Eligibility Order for participation in TPAPN, but declined to sign the order.

Petitioner provided several letters of support.

Petitioner and his attorney appeared in person. The Committee voted to **grant** the Petitioner a Texas Peer Assistance for Nursing Order.

Petitioners for an Exception to a Previous Board Order

The Committee considered thirteen (13) petitions for an exception to a previous board order:

1. Petitioner requested an Exception to a previous Board Order dated April 16, 2014, requesting she be allowed to practice unsupervised. The Petitioner did not appear at the meeting and could not be reached. It was the Committee's decision to **continue** the request and to allow the Executive Director to make a determination regarding the exception request.
2. Petitioner requested an Exception to a previous Board Order dated June 8, 2010, requesting an unencumbered license to further her education. It was the Committee's decision to **grant** a return to direct patient care with the following stipulations: Petitioner shall successfully complete an RN refresher course; Petitioner shall successfully complete a board approved course in nursing jurisprudence and ethics and complete the NCSBN course Critical Thinking; Petitioner shall notify present/future employers of the board order; shall submit notification of employment; Petitioner shall have direct supervision for the first year of the Order and indirect supervision for the remainder of the Order; and shall provide employer reports for a period of two years.

3. Petitioner requested an Exception to a previous Board Order dated October 23, 2014, requesting an unencumbered license. It was the Committee's decision to **grant** a modification to the Order to allow Petitioner to work with a specific employer as second employment.
4. Petitioner requested an Exception to a previous Board Order dated March 18, 2014, requesting that she be allowed to work hospice with a specified employer. It was the Committee's decision to **Grant** the request provided that the specified employer can provide the required supervision.
5. Petitioner requested an Exception to a previous Board Order dated July 17, 2014, the stipulation regarding supervision be removed and that she be allowed to practice unsupervised. It was the Committee's decision to **Grant** the request.
6. Petitioner requested an Exception to a previous Board Order dated May 8, 2007, requesting that she be allowed to practice direct patient care. It was the Committee's decision to **Grant** the request with the following conditions: Petitioner must complete a refresher course, Petitioner shall notify present/future employers of the board order, shall submit notification of employment, Petitioner shall have general supervision, unable to work night shifts for the first year, unable to work in critical for first year, unable to administer drugs for the first year, submit performance evaluations, abstain from drugs, alcohol, etc., subject to random drug screening, attend support group meetings for two years and pay five-hundred dollar (\$500) fine.
7. Petitioner requested an Exception to a previous Board Order dated July 18, 2013, requesting that she be granted an unencumbered license. It was the Committee's decision to **Deny** the request. The Order issued July 18, 2013 stands.
8. Petitioner requested an Exception to a previous Board Order dated May 12, 2015, requesting that the supervision stipulation be removed and that he be allowed to practice unsupervised. It was the Committee's decision to **Grant** the request, with the following modification, remove supervision stipulation and add incident reporting stipulation.
9. Petitioner requested an Exception to a previous Board Order dated May 13, 2014, requesting that the requirement for one year of monitoring be reduced. It was the Committee's decision to **Grant** the request and to apply monitoring credit from Louisiana.
10. Petitioner and Petitioner's Attorney requested an Exception to a previous Board Order dated May 7, 2012, requesting an amended Order with Board monitoring or EEP. It was the Committee's decision to **Grant** the request with the following conditions: Petitioner must complete a refresher course, Petitioner shall notify present/future employers of the board order, shall submit notification of employment, Petitioner shall have general supervision, submit performance evaluations, abstain from drugs, alcohol, etc., subject to random drug screening,

attend support group meetings for one year and pay five-hundred dollar (\$500) fine.

11. Petitioner requested an Exception to a previous Board Order dated April 28, 2011, requesting that the supervision stipulation be removed and that she be allowed to practice unsupervised. It was the Committee's decision to **Grant** the request with modification to allow physician supervision.
12. Petitioner requested an Exception to a previous Board Order dated November 13, 2012, requesting that he be able to practice pediatric private duty. It was the Committee's decision to **Grant** the request, provided that the Petitioner provide employment verification for staff review.
13. Petitioner requested an Exception to a previous Board Order dated June 13, 2014, requesting the removal of random drug screening and support group meeting stipulations. It was the Committee's decision to **Grant** the request and to amend to Order by removing the following stipulations: abstain from drugs, alcohol, etc., random drug screening and support group meetings. Further, the Committee moved to add the employer incident reporting stipulation to the Order.

Motions for Rehearing

The Committee considered seven (7) motions for rehearing:

1. Movant filed an untimely Motion for Rehearing in this matter. Movant stated he learned of the revocation on February 16, 2016. Movant received the notices and responded to investigator but misunderstood further action would be taken for his noncompliance. 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 stated he learned of the revocation on November 19, 2015. Movant stated he moved to a new address, but did not update anyone. 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 did not receive any of the Board correspondence as she moved out of state. 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 she learned of the revocation on March 14, 2016. Movant stated she failed to change her address with the Board. After review and due consideration of the filed motion, 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 a timely Motion for Rehearing in this matter. Movant stated he learned of the revocation on March 9, 2016. Movant stated he failed to pick up the notices in a timely manner. After review and due consideration of the filed motion, 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 stated she learned of the revocation on March 17, 2016. Movant stated she failed to update her address with the Board. It was the Committee's decision to **grant** the motion, as the Movant provided information sufficient to comply with Board Rule 213.16(j).
7. Movant filed an untimely Motion for Rehearing in this matter. 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 ten (110) disciplinary agreed orders were approved.

Six (6) reinstatement agreed orders were approved.

Twenty-four (24) eligibility agreed orders were approved.

Seventy-four (74) default revocation orders were approved.

Three (3) deferred disciplinary action agreed orders were approved.

Two (2) KSTAR Pilot Program agreed orders were approved.