

**ELIGIBILITY AND DISCIPLINARY COMMITTEE REPORT FOR
MAY 10, 2011, AND JUNE 14, 2011**

The Eligibility and Disciplinary Committee (Committee) convened on May 10, 2011, and June 14, 2011. 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 based on a variety of past misdemeanor offenses and two felony drug offenses, the youngest crime occurring in January, 2005. Petitioner's history included several periods of confinement in county jail and five months in state jail, in addition to community supervision.

Petitioner appeared in person. The Committee voted to continue the matter, and requested that the Petitioner submit to a forensic psychological evaluation with a polygraph examination prior to making a determination of eligibility.

2. Petitioner filed a petition based on an extensive criminal history of aggravated assault with a weapon, possession of cocaine, felony escape and a variety of misdemeanor offenses, with the youngest offense occurring in April, 2009.

In 2011, Petitioner voluntarily submitted to a mental health evaluation and a polygraph examination. The polygraph examination revealed deception to relevant questions related to Petitioner's criminal record. Therefore, based on the information obtained, the examiner stated that he could not conclusively affirm that Petitioner would conduct herself in accordance with the Board's rules.

Petitioner appeared in person. The Committee voted to deny the petition for licensure.

3. Petitioner filed a petition based on a criminal history of controlled substance possession and aggravated DWI, with the youngest offense occurring in September, 2001.

In October 2010, Petitioner voluntarily submitted to a forensic psychological evaluation and a polygraph examination. It was the psychologist's opinion that

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

Petitioner was likely to conduct herself in accordance with the Board's rules. Additionally, Petitioner provided counseling reports, negative drug screens, employment performance appraisals, and letters of recommendation in support of her petition.

Petitioner appeared in person and was represented by counsel. The Committee voted to grant the petition for licensure by endorsement with no eligibility order or stipulations.

4. Petitioner filed a petition based on a criminal history of drug possession and DWIs. Petitioner provided proof of inpatient/outpatient treatment for alcohol, a negative drug screen and AA attendance logs for a period preceding the petition in support of his petition.

Petitioner appeared in person with his AA sponsor and was represented by counsel. The Committee voted to grant the petition with the stipulation that Petitioner would apply to and be accepted in the TPAPN program upon licensure.

Petitioners for an Exception to a Previous Board Order

The Committee considered ten (10) petitions for an exception to a previous board order:

1. Petitioner requested that she be allowed to work as an agency nurse, as she had been unable to obtain employment under her current order. The Petitioner's license was reinstated after surrendering her license due to a substance use disorder. The order appropriately contained work restrictions designed to monitor her transition back into nursing practice; therefore, it was the Committee's decision to **deny** Petitioner's request.
2. Petitioner was issued an agreed order in April 2009 and shortly after moved to Washington. The State of Washington entered an Order requiring Petitioner to fully comply with the Texas Order, as well as adding several stipulations. Petitioner requested that the proof of completion of the Washington Order she submitted be accepted as compliance and completion of the Texas Order. It was the Committee's decision to **grant** Petitioner's request.
3. Petitioner was originally issued a Limited License with stipulations in 2006, then requested an exception to the Order seeking reinstatement of her ability to provide direct patient care under Board stipulations. The E&D Committee granted this request for an exception with certain conditions at that time. The Petitioner states that she did not understand the requirements of the Order, and that she has not provided direct patient care for some time. The Petitioner requested that she be granted a Limited License once more so that she can continue to work in a utilization review role. It was the Committee's decision to **grant** Petitioner's request.
4. Petitioner requested that she be allowed to work PRN shifts, however, she did not provide any evidence supporting a modification to the Order. Petitioner was disciplined for lacking fitness to practice, and as a result, the Board's Order required indirect supervision and employer reporting for a year, as well as therapy. It is

important for the Petitioner to work regularly scheduled shifts so that her demeanor and practice can be consistently monitored by her employer. It was the Committee's decision to **deny** Petitioner's request.

5. Petitioner received an Agreed Order in 2007 for a positive result for Methamphetamines and Amphetamines on a pre-employment drug screen. Petitioner requested permission to enter TPAPN's Extended Evaluation Program (EEP)² in lieu of completing the Board's Order. It was the Committee's decision to **deny** Petitioner's request, but granted an exception to allow Petitioner to begin drug screens immediately, while Petitioner is seeking employment so that he may show the Board sobriety even though he is not yet working as an RN.
6. Petitioner requested she be allowed to return to direct patient care after receiving a Limited License in 2006 for failing to administer medications and falsifying medical records. It was the Committee's decision to grant Petitioner's request with the following stipulations: 1 (refresher course), 1b, 1c, 1j, 4, 5, 6a and 10 for a period of one (1) year.
7. Petitioner requested that she be allowed to be supervised by an RN with less than two years experience and that she be allowed to work part time or night shifts. Petitioner was represented by counsel when she signed her Agreed Order and did not present any compelling argument for modification of the standard stipulations. Therefore, it was the Committee's decision to **deny** Petitioner's request.
8. Petitioner is an RN and requested that he be allowed to practice under the supervision of a LVN rather than an RN. Placing the Petitioner under the supervision of another who is subject to RN oversight and supervision is incongruent with the NPA; therefore, it was the Committee's decision to **deny** Petitioner's request.
9. Petitioner signed an Eligibility Agreed Order after having his Petition for Declaratory Order considered by the E&D Committee in September 2010. The Order required Petitioner to enroll in TPAPN upon licensure. Petitioner requested that the Board vacate the Eligibility Agreed Order and issue him an unencumbered license. It was the Committee's decision to **deny** the Petitioner's request.
10. Petitioner requested that all of the stipulations issued to her in her Eligibility Agreed Order be removed so that she may be allowed to practice independently and in any setting. Petitioner states that the criminal conduct which led to the eligibility order should have been considered a youthful indiscretion. It was the Committee's decision to deny Petitioner's specific request; however, the Committee approved a modification to the Order removing the supervision stipulation and replacing it with incident reporting (stip 6i).

² Petitioner was not eligible for this program because he has had Board disciplinary action within the last five years.

Motions for Rehearing

The Committee considered four (4) motions for rehearing:

1. Movant filed a Motion for Rehearing more than 20 days after the date of the license revocation (revoked by default). Evidence shows that the Notice of Hearing was received; however, Movant did not file a response to the formal charges until the day after her license was revoked. Movant's license to practice nursing in Arizona was revoked, citing mental health concerns. 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 Motion for Rehearing in this matter, and according to Movant, her motion was filed the day she learned of the revocation. However, Movant's license was revoked four months prior. Movant admitted to failing to change her address with the Board, and although she did not outright deny the allegations in the formal charges, she did present sufficient evidence of mitigating factors. Movant provided information sufficient to comply with Board Rule 213.16(j). It was the Committee's decision to **grant** the motion.
3. Movant filed a Motion for Rehearing within 20 days of the date she stated that she learned of her license revocation (revoked by default). The Movant stated that she provided a forwarding address to the post office when she relocated. The allegations in the formal charges were of a serious nature (that could result in revocation) and Movant provided her response to the allegations to the Committee. Movant provided information sufficient to comply with Board Rule 213.16(j); therefore, it was the Committee's decision to **grant** the motion.
4. Movant's license was revoked by default for noncompliance with his Agreed Order. Movant filed a Motion for Rehearing within 20 days of the Board's revocation order. The Movant stated that he did not have money to pay the fine or take the required course as required by the Order. Further, he had not complied with the other requirements of his order. Movant has a history with the Board, including a prior default revocation, and a previous motion for rehearing, which was granted by the Board. Movant did not provide information sufficient to comply with Board Rule 213.16(j). It was the Committee's decision to deny the motion.

Orders Ratified:

One hundred forty-two (142) disciplinary agreed orders were approved.

Sixteen (16) reinstatement agreed orders were approved.

Twenty-six (26) eligibility agreed orders were approved.

One hundred thirty-two (132) default revocation orders were approved.

Six (6) deferred disciplinary agreed orders were approved.