

Agenda Item #14.



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Vocational Nursing and Psychiatric Technicians
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DATE: November 7, 2013

TO: Board Members

FROM: *Marilyn Kimble*
Marilyn Kimble
Enforcement Division Chief

SUBJECT: Discussion of Enforcement Mail Ballots

Attached for your reference are sample mail ballots for the various disciplinary matters that come before the Board for action.

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

MAIL BALLOT - PROPOSED DECISION

DUE DATE:

A Proposed Decision occurs when a case has been heard before an Administrative Law Judge. Board Members are authorized to adopt the decision or decrease the penalty. In order to increase the penalty the Board must request the hearing transcript. A decision must be rendered within 100 days.

In the Matter of the Accusation/Statement
of Issues against

MAIL BALLOT NO. _____

100 DAY PERIOD ENDS _____

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

- ABSTAIN**
- ADOPT -- The Proposed Decision**
- NON-ADOPT -- The Proposed Decision and request the hearing transcript for consideration to increase the penalty.**

Please provide explanation for *non-adopt*: _____

- NON-ADOPT -- The Proposed Decision and recommend a decrease in penalty as follows:**

Probation (Circle one) 1 yr. 2 yrs. 3 yrs. 4 yrs. 5 yrs. Other _____

AND the following optional terms and conditions (see reverse for listing):

15 16 17 18 19 20 21 22 23 24 25

Please provide explanation for *non-adopt*: _____

- SCHEDULE FOR CLOSED SESSION**

Please provide explanation for *closed session discussion*: _____

SIGNATURE: _____ **DATE:** _____

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

MAIL BALLOT – STIPULATION

DUE DATE:

A Stipulation occurs when the respondent admits to the allegations. Adoption of a Stipulation by the Board eliminates the cost of an administrative hearing. Board members are authorized to accept the stipulation, modify the terms of the stipulated agreement or remand the case to an administrative hearing.

In the Matter of the Accusation/Statement
of Issues against:

MAIL BALLOT NO. _____

100 DAY PERIOD ENDS _____

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

- ABSTAIN**
- ADOPT -- The Proposed Stipulation**
- NON-ADOPT -- The Proposed Stipulation and recommend one of the following:**

____ **Revocation of license or Denial of application**

____ **Probation** (Circle one) 1 yr. 2 yrs. 3 yrs. 4 yrs. 5 yrs. Other _____

AND the following optional terms and conditions (*see reverse for listing*):

15 16 17 18 19 20 21 22 23 24 25

Please provide explanation for *non-adopt*: _____

- SCHEDULE FOR CLOSED SESSION**

Please provide explanation for *closed session discussion*: _____

SIGNATURE: _____ DATE: _____

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

MAIL BALLOT – DEFAULT DECISION

DUE DATE:

A Default Decision occurs when the respondent fails to file a notice of defense or fails to appear for the hearing. The automatic penalty is revocation of the license.

In the Matter of the Accusation/Statement
of Issues against

MAIL BALLOT NO. _____

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

- ABSTAIN**
- ADOPT**
- REJECT (REMAND TO HEARING)**
- SCHEDULE FOR CLOSED SESSION**

Please provide explanation for *closed session discussion*: _____

COMMENTS: _____

SIGNATURE: _____ **DATE:** _____

**BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS**

MAIL BALLOT – ORDER TO COMPEL PSYCHOLOGICAL EVALUATION

DUE DATE:

An Order to Compel a Psychological Evaluation occurs when the respondent may be unable to practice safely as a vocational nurse or psychiatric technician because respondent is impaired due to mental illness or physical illness affecting competency.

In the Matter of the Petition for an Order)
to Compel Psychological Evaluation:)
)
)
_____)

MAIL BALLOT NO. _____

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

- ABSTAIN**

- ADOPT – Order to Compel Psychological Evaluation**

- NON-ADOPT – Order to Compel Psychological Evaluation**

Please provide explanation for *non-adopt*:

- SCHEDULE FOR CLOSED SESSION**

Please provide explanation for *closed session discussion*: _____

SIGNATURE: _____ **DATE:** _____

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

MAIL BALLOT - DECISION AFTER NON-ADOPTION

DUE DATE:

A Decision after Non-Adoption occurs when the Board did not accept the Proposed Decision of the Administrative Law Judge. The Board requested the hearing transcript for consideration of an increased penalty. Board members are authorized to accept the proposed penalty, increase or decrease the penalty.

In the Matter of the Accusation/Statement)
of Issues against:)
)
)
)
)
_____)

Refer to:

MAIL BALLOT NO. _____

Enclosed is a copy of the hearing transcript with written arguments pertaining to the above case.

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

- ABSTAIN**
- ADOPT -- The original Proposed Decision**
- NON-ADOPT -- Render one of the following decisions:**

____ **Revocation**

____ **Probation** (Circle one) 1 yr. 2 yrs. 3 yrs. 4 yrs. 5 yrs. Other _____

AND the following optional terms and conditions (*see reverse for listing*):

13 14 15 16 17 18 19 20 21 22

Please provide explanation for *non-adopt*:

SIGNATURE : _____

DATE: _____

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

MAIL BALLOT - RECONSIDERATION OF PROPOSED DECISION

E-MAIL VOTE DUE DATE:

MAIL BALLOT DUE DATE:

A Reconsideration occurs when the Respondent requests that the Board reduce the penalty imposed in its Proposed Decision or Default Decision. Board Members are authorized to deny the Petition, to decrease the penalty (Proposed Decisions only), or to request an administrative hearing.

In the Matter of the Accusation/Statement)
of Issues against:)
)
)
_____)

Refer to:
MAIL BALLOT NO. _____
EFFECTIVE DATE OF DECISION
DELAYED TO: _____

Enclosed is a Petition for Reconsideration pertaining to the above case.

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

ABSTAIN

I VOTE FOR THE DECISION TO REMAIN AS IT IS.

Please provide an explanation: _____

I VOTE TO GRANT THE PETITION AND DECREASE THE DISCIPLINE AS FOLLOWS:

Probation (Circle one) 1 yr. 2 yrs. 3 yrs. 4 yrs. 5 yrs. Other _____

AND the following optional terms and conditions (*see reverse for listing*):

15 16 17 18 19 20 21 22 23 24 25

Please provide an explanation: _____

I VOTE TO SCHEDULE A CLOSED SESSION

(Board meeting closed session must occur prior to the effective date of the Decision.)

Please provide an explanation: _____

I VOTE TO GRANT THE PETITION AND REMAND THE MATTER TO HEARING.

Please provide an explanation: _____

SIGNATURE: _____ **DATE:** _____

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

MAIL BALLOT - RECONSIDERATION OF DEFAULT DECISION

E-MAIL VOTE DUE DATE:

MAIL BALLOT DUE DATE:

A Reconsideration occurs when the Respondent requests that the Board reduce the penalty imposed in its Proposed Decision or Default Decision. Board Members are authorized to deny the Petition, to decrease the penalty (Proposed Decisions only), or to request an administrative hearing.

In the Matter of the Accusation/Statement)
of Issues against:)
)
)
)
_____)

Refer to:
MAIL BALLOT NO. _____
EFFECTIVE DATE OF DECISION
DELAYED TO: _____

Enclosed is a Petition for Reconsideration pertaining to the above case.

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

ABSTAIN

I VOTE FOR THE DECISION TO REMAIN AS IT IS.

Please provide an explanation: _____

I VOTE TO GRANT THE PETITION AND REMAND THE MATTER TO HEARING

Please provide an explanation: _____

I VOTE TO SCHEDULE FOR CLOSED SESSION

(Board meeting closed session must occur prior to the effective date of the Decision.)

Please provide an explanation: _____

SIGNATURE: _____ **DATE:** _____

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

MAIL BALLOT - RECONSIDERATION OF DENIAL FOR REINSTATEMENT

E-MAIL VOTE DUE DATE:

MAIL BALLOT DUE DATE:

A Reconsideration occurs when the Respondent/Petitioner requests that the Board reduce the penalty imposed in a Decision. Board Members are authorized to deny the Petition for Reconsideration or grant reinstatement.

In the Matter of the Accusation/Statement
of Issues against:

Refer to:
MAIL BALLOT NO. _____

**EFFECTIVE DATE OF DECISION
DELAYED TO:** _____

Enclosed is a Petition for Reconsideration pertaining to the above case.

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

- ABSTAIN**
- I VOTE FOR THE DECISION TO REMAIN AS IT IS.**

Please provide an explanation: _____

- I VOTE TO GRANT REINSTATEMENT WITH NO PROBATION.**
- I VOTE TO GRANT REIINSTATEMENT WITH PROBATION AS FOLLOWS:**

Probation (Circle one) 1 yr. 2 yrs. 3 yrs. 4 yrs. 5 yrs. Other _____

AND the following optional terms and conditions (*see reverse for listing*):

15 16 17 18 19 20 21 22 23 24 25

Please provide explanation for *non-adopt*: _____

SIGNATURE: _____ **DATE:** _____

****CONFIDENTIAL****

**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
MAIL BALLOT – RECONSIDERATION OF DECISION TO DENY PETITION FOR EARLY
TERMINATION OF PROBATION**

E-MAIL VOTE DUE DATE:

MAIL BALLOT DUE DATE:

In the Matter of the Petition for Early
Termination of Probation By:

Refer to:
MAIL BALLOT NO. _____

**EFFECTIVE DATE OF DECISION
DELAYED TO:** _____

Enclosed is a Petition for Reconsideration pertaining to the above case.

MY OFFICIAL VOTE IN THE ABOVE MATTER IS AS FOLLOWS:

I VOTE TO ABSTAIN

I VOTE FOR THE DECISION TO REMAIN AS IT IS

Please provide an explanation: _____

I VOTE TO GRANT THE EARLY TERMINATION OF PROBATION

Please provide an explanation: _____

I VOTE TO SCHEDULE A CLOSED SESSION

(Board meeting closed session must occur prior to the effective date of the Decision.)

Please provide an explanation: _____

SIGNATURE: _____ **DATE:** _____

(ENF 05/13/11)

STANDARD TERMS
(ROUTINELY INCLUDED IN ALL PROBATION CASES)

- | | |
|---|--|
| 1. Obey All Laws | 8. Employment Requirements and Limitations |
| 2. Compliance with Probation Program | 9. Supervision Requirements |
| 3. Submit Written Reports | 10. Completion of Educational Course(s) |
| 4. Notification of Address and Telephone Number Change | 11. Maintenance of Valid License |
| 5. Notification of Residency or Practice Outside of State | 12. Cost Recovery Requirements |
| 6. Meetings with Board Representative(s) | 13. License Surrender |
| 7. Notification to Employer(s) | 14. Violation of Probation |

OPTIONAL TERMS

15. **Suspension of License** -- Suspension of licensure for a period not to exceed one year.
16. **Examination by a Physician** -- Concern that respondent is physically impaired (e.g. substance abuse or serious medical condition).
17. **Psychiatric/Psychological Evaluation** -- Concern that respondent is mentally, or emotionally impaired.
18. **Psychotherapy** -- Concern that respondent is mentally, or emotionally impaired and requires ongoing therapy.
19. **Rehabilitation Program** -- To be imposed only if drugs or alcohol abuse is a current problem (within the past 24 months).
20. **Chemical Dependency Support and Recovery Groups** -- Should be included in all drug/alcohol abuse cases.
21. **Abstain from Controlled Substances** -- Should be included in all drug abuse cases.
22. **Abstain from Use of Alcohol and Products Containing Alcohol** -- Should be included in all alcohol abuse cases.
23. **Submit Biological Fluid Samples** -- Should be included in all drug/alcohol abuse cases.
24. **Take and Pass Licensure Examination** -- Concern that respondent has been out of practice too long and must demonstrate competence to practice.
25. **Restriction on Licensed Practice** -- Restrict client population, practice setting and/or limit medical procedures.

UNIFORM STANDARDS – REQUIRED CONDITIONS OF PROBATION

26. **Submit to Drug Testing** – Respondent shall immediately submit to testing at Board’s request.
27. **Positive Drug Test** – A positive drug test is evidence of a major violation.
28. **Major and Minor Violations** – Any action taken will be determined by the Board.

UNIFORM STANDARDS – OPTIONAL CONDITIONS

29. **Clinical Diagnostic Evaluation** – Respondent shall undergo evaluation by order of the Board.
30. **Group Meetings With Qualified Facilitator** – Respondent shall participate upon the recommendation of the clinical evaluator and/or determination by the Board.
31. **Worksite Monitor** – Respondent shall submit the name of a proposed monitor within 30 days of the date of the effective date of the Decision.

BRIEF DESCRIPTION OF ACTIONS

- **Abstain** – A Board Member must abstain from participation in a case *only* if the Board Member knows or recognizes the respondent (licensee, applicant or petitioner) or has knowledge of the incident(s) which led to the disciplinary action.
- **Adopt** – The proposed decision is adopted as specified.
- **Non-Adopt (increase penalty)** – The hearing transcript must be requested to consider increasing the penalty proposed by the Administrative Law Judge (ALJ). A new 100 day time period to render a decision begins when the transcript is received. After review of the transcript, the Board may vote to adopt the proposed decision as specified, increase the penalty or decrease the penalty.
- **Non-Adopt (decrease penalty)** – The Board may vote to decrease the penalty proposed by the ALJ without requesting the hearing transcript.
- **Schedule for Closed Session** – The proposed decision will be scheduled for closed session at the next scheduled Board Meeting, if the meeting is scheduled within the 100 day time period to render a decision.