



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

Megan Castor
Assistant Counsel

mcastor@pa.gov
Counsel Division

September 8, 2025

Via E-Mail

Richard Q. Hark, Esquire
HARK & HARK
32 Parking Plaza, Suite 401
Ardmore, PA 19003-2438
richard.hark@penncriminaldefense.com
jessica.bonfig@penncriminaldefense.com

Via Interoffice Mail

T'rese M. Evancho, Esquire
P.O. Box 69521
Harrisburg, PA 17106-9521

RE: Final Adjudication and Order:
In the Matter of the Petition for Reinstatement of the License to
Practice Professional Nursing of Mary Jo Bross, a/k/a Mary Jo Meyer, RN
Case No. 24-51-004100

Dear Mr. Hark and Ms. Evancho:

Enclosed please find a Final Adjudication and Order in the above-referenced matter being issued this date.

Sincerely,

Megan E. Castor, Counsel
State Board of Nursing

MEC
Enclosure

cc: Cynthia Miller, Board Administrator
State Board of Nursing

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

BEFORE THE STATE BOARD OF NURSING

**IN THE MATTER OF THE PETITION FOR REINSTATEMENT
OF THE LICENSE TO PRACTICE PROFESSIONAL NURSING
OF MARY JO BROSS, A/K/A MARY JO MEYER, RN**

CASE NO. 24-51-004100

FINAL ADJUDICATION AND ORDER

**ARION R. CLAGGETT
ACTING COMMISSIONER
BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

**COLBY P. HUNSBERGER, DNP, RN, CNECL
CHAIR
STATE BOARD OF NURSING**

**P.O. BOX 69523
HARRISBURG, PA 17106-9523**

MEC

Prothonotary Filed On:
Sep 08 2025 12:02 PM
Department of State

HISTORY

This case is before the State Board of Nursing (Board) for a determination of whether the professional nursing license of Mary Jo Bross, a/k/a Mary Jo Meyer, RN (Petitioner), should be reinstated. On August 17, 2017, by Final Order Adopting Hearing Examiner's Proposed Adjudication and Order at Case No. 14-51-05549, the Board revoked Petitioner's license based upon her having been convicted of four felony offenses in California in 2015. The Board took its action via the 2017 Revocation Order after it found that Petitioner was subject to discipline under Section 14(a)(5) of the Professional Nursing Law¹ (the "Act"), 63 P.S. § 224(a)(5), because Petitioner had been convicted of the following four (4) felony counts the Los Angeles County [California] Superior Court: 1) Assault with a Deadly Weapon (felony), in violation of California Penal Code § 245(a)(1); 2) Injuring a Spouse, Cohabitant, Fiancé, Boyfriend, Girlfriend or Child's Parent (felony), in violation of California Penal Code § 273.5(a); 3) Murder (felony), in violation of California Penal Code § 187(a); and 4) Gross Vehicular Manslaughter While Intoxicated (felony), in violation of California Penal Code § 191.5(a). Petitioner was subsequently sentenced to 16 years to life imprisonment.

On March 7, 2024, Petitioner filed a Petition to Reinstate Petitioner's License to Unrestricted Status (Petition). Petitioner alleged, among other things, that as a result of additional information brought forth during a subsequent criminal appeal, as well as the COVID-19 emergency, the Los Angeles County District Attorney agreed to vacate Petitioner's convictions in exchange for Petitioner pleading guilty to voluntary manslaughter, in violation of California Penal Code § 192(a). Petitioner's Reinstatement Petition further disclosed that Petitioner also pled guilty to violating California Penal Code § 245(a)(1) and California Vehicle Code § 20001(B)(2).

¹ The act of May 22, 1951, P.L. 317, *as amended*, 63 P.S. §§ 211-226.

Petitioner was resentenced to time served and placed on two (2) years' parole. Petitioner was released from prison on July 21, 2021. She was subsequently released from parole after serving one (1) year.

On March 12, 2024, this matter was delegated to the office of hearing examiners to conduct a formal hearing and issue a proposed adjudication and order. On April 3, 2024, the Prothonotary issued a Notice of Hearing scheduling the hearing for May 20, 2024. On April 9, 2024, counsel for Petitioner requested a continuance, which was granted by Order dated May 1, 2024. On September 11, 2024, the Prothonotary issued a Notice of Rescheduled Hearing, scheduling the hearing for November 14, 2024. On September 17, 2024, Petitioner filed an unopposed Motion to convert the hearing to video, which was granted by way of an Order dated September 2024.

The hearing took place on November 14, 2024, as scheduled before hearing examiner, Peter D. Kovach, Esquire. Petitioner appeared and was represented by Richard Q. Hark, Esquire. Petitioner testified on her own behalf, presented the testimony of several character witnesses, and offered documentary evidence in support of her Petition. The Commonwealth was represented by T'rese M. Evancho, Esquire. The parties waived the filing of post-hearing briefs, and the record in this matter was closed with the filing of the hearing transcript (N.T.) on December 4, 2024.

On January 29, 2025, the hearing examiner issued a Proposed Adjudication and Order recommending that Petitioner's license be reinstated to probationary status, for a minimum of three years, subject to the terms of general probation. The Board filed a Notice of Intent to Review on January 30, 2025. Neither party filed a Brief on Exceptions. The Board deliberated on the entire record and now issues this Adjudication and Order in final disposition of this matter.

FINDINGS OF FACT

1. Petitioner held a license to practice as a professional nurse in the Commonwealth of Pennsylvania, license number RN259152L. (Official Notice² of Board Records (“Board Records”))

2. Petitioner’s license was originally issued on September 12, 1983, expired on April 30, 2001, and was revoked by the Board pursuant to an August 2, 2017, Final Order Adopting Hearing Examiner's Proposed Adjudication and Order issued in Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs v. Mary Jo Meyer, RN at Case No. 14-51-05549 (Revocation Order). (N.T. at Exhibit B-2; Board Records)

3. Petitioner’s current address is 639 Vester Place, Sinking Spring, PA 19608. (N.T. at Exhibit B-1)

4. Among other findings, the Board made the following findings of fact in the 2017 Revocation Order:

* * * * *

5. On or about September 1, 2015, Petitioner was found guilty by a jury before the Los Angeles County Superior Court of the following crimes in the matter *The People of the State of California v. Mary Jo Meyer*, Case No. PA079281: 1)

² Rule 35.173 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.173 permits the agency head or presiding officer to take official notice of “such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. ...” The taking of official notice by administrative agencies has been sanctioned by appellate courts. *See e.g., Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A.2d 991 (Pa. Cmwlth. 1987), which stated that

"Official notice" is the administrative counterpart of judicial notice and is the most significant exception to the exclusiveness of the record principle. The doctrine allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency's field **and those facts contained in reports and records in the agency's files**, in addition to those facts which are obvious and notorious to the average person. Thus, official notice is a broader doctrine than is judicial notice and recognizes the special competence of the administrative agency in its particular field and also recognizes that the agency is a storehouse of information on that field consisting of reports, case files, statistics and **other data relevant to its work**.

521 A.2d at 994 n.6 (emphasis added). *See also Gleeson v. State Bd. of Medicine*, 900 A.2d 430, 440 (Pa. Cmwlth. 2006), *appeal denied*, 917 A.2d 316 (Pa. 2007) (licensing board may take official notice of its own records).

Assault with a Deadly Weapon (felony), in violation of California Penal Code §245(a)(1); 2) Injuring a Spouse, Cohabitant, Fiancé, Boyfriend, Girlfriend or Child's Parent (felony), in violation of California Penal Code §273.5(a); 3) Murder (felony), in violation of California Penal Code §187(a); and 4) Gross Vehicular Manslaughter While Intoxicated (felony), in violation of California Penal Code §191.5(a)(the "California Criminal Matter") (N.T. at Exhibit C-3)

6. On or about November 4, 2015, Petitioner was sentenced by the Los Angeles County Superior Court to the following at Case No. PA079281: 1) 16 years to life imprisonment; 2) Costs in the amount of \$280.00; 3) Restitution in the amount of \$6,250.62. (N.T. at Exhibit C-3)

* * * * *

(N.T. at Exhibit B-2)

5. Among other findings, the Board made the following conclusion of law in the 2017

Revocation Order:

* * * * *

3. Petitioner is subject to the imposition of discipline under Section 14(a)(5) of the Act, 63 P.S. § 224(a)(5), based upon her four felony convictions before the Los Angeles County Superior Court in the matter *The People of the State of California v. Mary Jo Meyer*, Case No. PA079281. (Finding of Fact, Nos. 5-6).

* * * * *

(N.T. at Exhibit B-2)

6. Petitioner did not appeal the 2017 Revocation Order. (Board Records)

7. By way of *Default Decision and Order* effective December 27, 2017, the California Board of Registered Nurses (the "California Board") revoked Petitioner's California registered nurse license and nurse practitioner certificate based upon the same or substantially the same underlying factual basis as the Board's 2017 Revocation Order. (N.T. at Exhibit P-1)

8. At the time Petitioner committed the crimes which led to her criminal convictions in California, Petitioner suffered from an alcohol use disorder and regularly drank/utilized alcohol. (N.T. at 48-51, 67-68; Exhibits B-1, P-1)

9. Petitioner had one drink of alcohol in prison on December 24, 2016; the one (1) drink made Petitioner feel "horrible" and she "regretted it." (N.T. at 48; Exhibit P-1)

10. On or about February 27, 2024, the California Board issued a *Decision* in which it determined Petitioner had presented sufficient evidence to establish that, after Petitioner successfully completed the licensure examination, it would be consistent with the public health, safety, and welfare to reinstate Petitioner's California license on a probationary basis. (N.T. at Exhibit P-1)

11. The California *Decision* further provided that the revocation of Petitioner's California license would be stayed, and Petitioner's California license would be placed on probation for a period of three (3) years, subject to terms and conditions. (N.T. at Exhibit P-1)

12. Within the California Board's *Decision*, the California Board made, among other things, the following factual findings:

1. On November 30, 1985, the [California] Board of Registered Nursing (Board) issued petitioner Registered Nurse (RN) license number 393253 (license). Petitioner's license expired on February 28, 2015, and has not been renewed

* * * * *

7. Petitioner is 65 years old. She was raised by abusive parents and had low self-esteem. Petitioner's brother died from cancer when he was seven years old. Petitioner's grandmother died and petitioner's family when bankrupt. Everyone in petitioner's family used alcohol to cope. In 1986, petitioner hurt her back while working as a nurse. She drank beer daily to deal with the pain and everyday stress. This continued until 2014.

8. On January 5, 2014, petitioner was living with her partner of 15 years, the victim. They were both alcoholics and had an unhealthy relationship. That day, petitioner had consumed two beers and whiskey. Petitioner and the victim got into a fight. He told her to leave, so she packed her car to leave. As petitioner was driving away from her home, she did not notice that the gate to exit the property was closed or that the victim was standing near the gate. She hit the gate with her vehicle and knocked the gate off its roller. The gate hit the victim, who was standing near the gate, which knocked him backward to the ground and severely injured him. The victim was taken to the hospital and petitioner was ultimately arrested.

The victim sustained serious injuries but improved over several days. The victim was transferred from one hospital to another. A series of mistakes were made related to his care, and he died from his injuries. Petitioner was devastated. She had not been allowed to see him in the hospital.

(N.T. at Exhibit P-1)

13. The California Board's *Decision* to reinstate Petitioner's California licenses was based, in part, upon a determination that after Petitioner was convicted in 2015, the California District Attorney agreed to reverse Petitioner's convictions and instead allowed her to plead guilty to voluntary manslaughter in 2021 with a sentence of time served. The *Decision* further indicated that the District Attorney took the action after it was discovered that Petitioner's criminal trial attorney had not investigated certain claims related to the lack of qualifications of the accident reconstruction expert utilized by the criminal prosecution, there was evidence indicating Petitioner was traveling 8 miles per hour or slower when she struck the gate (not 40 miles per hour as originally asserted by the prosecution), and concern that the cause of death was actually due to a delay in diagnosis and treatment by the second hospital to which the decedent had been transferred of a post traumatic cerebral edema. (N.T. at Exhibit P-1)

14. Petitioner's understanding is that she will be placed in a monitoring program in California. (N.T. at 46-48)

15. Petitioner has not yet passed the licensure examination required by the California *Decision*; therefore, her California license has not been reinstated and she has not been required to enroll in a California Board monitoring program; however, Petitioner did attend the support group meetings for a few months. (N.T. at 47-48)

16. With respect to the underlying actions and inactions of Petitioner which had previously resulted in the 2015 convictions referenced in Findings of Fact 3, after the matter was reopened several years later by the District Attorney, Petitioner subsequently pled guilty to violating:

- a. Cal. Penal Code § 192(a) (West) (relating to manslaughter; voluntary, involuntary, and vehicular);
- b. Cal. Penal Code § 245(a)(1) (West) (relating to assault with deadly weapon or force likely to produce great bodily injury; punishment); and
- c. Cal. Veh. Code § 20001 (West) (relating to duty to stop at scene of injury accident; penalties)

(N.T. at 58; Exhibit B-1)

17. While incarcerated, Petitioner served as the prison librarian. (N.T. at Exhibit P-1)

18. While incarcerated, Petitioner completed all classes that were offered and obtained her associate degree in sociology. (N.T. at Exhibit P-1)

19. Petitioner dates her sobriety date from December 24, 2016. (N.T. at 55; Exhibit P-1)

20. In 2019, while incarcerated, Petitioner completed Options Drug and Alcohol Counselors School and became a certified substance use disorder counselor in California in 2021. (N.T. at 55; Exhibits P-1, B-1)

21. While incarcerated, Petitioner participated in Emotions Anonymous (EA) Support Group, Celebrate Recovery, Alcoholics Anonymous (AA), and Narcotics Anonymous (NA). (N.T. at 55; Exhibit P-1)

22. Petitioner estimates that she attended approximately 1050 AA, NA and EA meetings during her period of incarceration, and approximately 2000 meetings when calculating both her attendance during, as well as after, incarceration. (N.T. at 61-62, 64)

23. Petitioner is not currently taking any medication to inhibit her ability to drink. (N.T. at 64-65)

24. Petitioner was paroled from prison on July 21, 2021. (N.T. at Exhibit P-1)

25. Petitioner has a support system of family members in the Robesonia, Pennsylvania area consisting of several siblings, her uncle, and their respective partners. (N.T. at 65)

26. Joan De Neve (“De Neve”) is licensed as a registered nurse and has known Petitioner since 1985. (N.T. at 32-33; Exhibit B-1)

27. De Neve has been a nurse in California for 50 years (N.T. at 33)

28. De Neve was Petitioner's supervisor and expressed her opinion that Petitioner is an exceptional nurse, thorough, attentive to details, knowledgeable, and centered on assuring patient outcomes. (N.T. at 34; Exhibit B-1)

29. De Neve is aware of Petitioner's criminal charges and convictions. (N.T. at 34-35)

30. Petitioner's criminal convictions did not change De Neve's opinion of Petitioner's ability to practice nursing. (N.T. at 35)

31. De Neve recommended that Petitioner's California license be reinstated. (N.T. at 33; Exhibit B-1)

32. De Neve supported Petitioner throughout her criminal trial and incarceration and believes that Petitioner would be an asset to the nursing profession. (N.T. at 34; Exhibit B-1)

33. Ana Castilla-Harris ("Castilla-Harris") is a registered nurse in California and has been a nurse for over 45 years. (N.T. at 27)

34. Castilla-Harris has known Petitioner for 40 years. (N.T. at 27)

35. Castilla-Harris worked closely with Petitioner at Burbank Community/Thompson Memorial Hospital Emergency Department for four (4) to six (6) years. (N.T. at 27; Exhibit B-1)

36. Castilla-Harris is aware of Petitioner's criminal charges and convictions. (N.T. at 28)

37. Petitioner's criminal convictions did not change Castilla-Harris's opinion of Petitioner's ability to practice nursing. (N.T. at 21)

38. Castilla-Harris opined that Petitioner was compassionate, exceptionally responsive to her duties, was always proactive and often took the initiative to go beyond the expected at her job; Petitioner was always motivated and eager to teach and learn and help co-workers. (N.T. at 29; Exhibit B-1)

39. Castilla-Harris recommended that Petitioner's California license be reinstated. (N.T. at Exhibit B-1)

40. Essele Thomas-Miller, RN, MSN, CNS, ACNP ("Miller") has known Petitioner for over 20 years and worked with Petitioner in the Emergency Department of a small hospital from 1994 to 1998. (N.T. at 19, 21; Exhibit B-1)

41. Miller is aware of the criminal charges filed against Petitioner. (N.T. at 20)

42. Miller supported Petitioner's licensure reinstatement request before the California Board as well as currently before the Pennsylvania Board. (N.T. at 20, 23)

43. Miller opined that Petitioner has excellent communication skills, represents herself with professionalism and self-control, and worked well as a member of the emergency team of nurses, physicians, ancillary staff, patients, and members of the public. (N.T. at Exhibit B-1)

44. Petitioner's criminal convictions did not change Miller's opinion of Petitioner or her ability to practice nursing. (N.T. at 21)

45. Michele Gerard MSN, BSN, RNC-OB, C-EFM ("Gerard") is a nurse in California and has been a registered nurse since 1985. (N.T. at 38)

46. Gerard met Petitioner in 1998. (N.T. at 39; Exhibit B-1)

47. Gerard has held positions as a Nurse Manager and Director in several major medical centers in Los Angeles and until 2023, worked for West Coast University, Department of Nursing designing and teaching online theory, clinical and simulation courses. (N.T. at 38-39; Exhibit B-1)

48. Gerard was Petitioner's supervisor while Petitioner held the position of Clinical Educator at Providence Saint Joseph Medical Center in Burbank, California. (N.T. at 40; Exhibit B-1)

49. Gerard opined that Petitioner was one of the most compassionate nurses she had the pleasure to know. (N.T. at Exhibit B-1)

50. Gerard opined that Petitioner always went above and beyond and always wanted to learn and be on her game. (N.T. at 39)

51. Petitioner stood out to Gerard as being exemplary. (N.T. at 41)

52. Gerard is aware of Petitioner's criminal charges and convictions. (N.T. at 41)

53. Petitioner's criminal convictions did not change Gerard's opinion of Petitioner's ability to practice as a health care professional. (N.T. at 41)

54. Gerard recommended that Petitioner's California license be reinstated. (N.T. at 40; Exhibit B-1)

55. Gerard would hire Petitioner as a nurse if Petitioner reactivated her California license. (N.T. at 42)

56. Petitioner has not been convicted of any crimes since her revised guilty pleas in 2021. (N.T. at 71; Exhibit P-4)

57. Petitioner does not intend to return to California due to the cost of living and because her family is located in Pennsylvania. (N.T. at 44, 55, 57)

58. Petitioner completed the following continuing education courses:

- a. A 3-hour continuing education course offered by the University of Pittsburgh School of Social Work, PA Child Welfare Resource Center, entitled "Recognizing and Reporting Child Abuse: Mandated and Permissive Reporting in Pennsylvania," awarded on March 24, 2024;
- b. A 2.00 contract hour course offered by Nursing CE Central entitled "A Nurse's Guide: How to Deal with Difficult Patients" awarded on March 23, 2024;
- c. A 28.50 contact hour course offered by Nursing CE Central entitled "Pennsylvania Renewal Bundle" awarded on March 24, 2024; and
- d. A 64-contact hour course offered by California School of Health Sciences entitled "Nurse Refresher" and awarded on September 22, 2024.

(NT at Exhibits P-3, P-5)

59. Petitioner currently works in housekeeping at Wernersville State Hospital and hopes to become employed as a registered nurse there. (N.T. at 55)

60. Petitioner also has an offer with the Caron Foundation. (N.T. at 55)

61. On or about March 7, 2024, Petitioner filed a Petition to Reinstate Petitioner's License to Unrestricted Status. (N.T. at Exhibit B-1)

62. Petitioner was afforded notice of the hearing on her Reinstatement Petition; Petitioner appeared at the hearing and was represented by Richard Q. Hark, Esquire; Petitioner was provided the opportunity to testify on her own behalf, call witnesses in support of her case, and admit evidence in support of her Petition. Petitioner was offered the opportunity to file a post-hearing brief in the matter but declined. (Docket at case number 24-51-004100, N.T. at 1-92)

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter. (Findings of Fact Nos. 1-3)
2. Petitioner was provided an opportunity to be heard regarding her request for reinstatement, in accordance with the Administrative Agency Law, 2 Pa.C.S. § 504. (Finding of Fact No. 62)
3. Petitioner holds no property right in her former license in Pennsylvania to practice as a registered nurse and has been returned to a position as if she had never held a license. (F.F. 2, 5; *McGrath v. Bureau of Prof'l & Occupational Affairs, State Bd. of Nursing*, 643 Pa. 281, 296, 173 A.3d 656, 665 (2017); *Pittenger v. Dep't of State, Bureau of Prof'l & Occupational Affairs*, 142 Pa. Cmwlth. 57, 596 A.2d 1227 (1991), *Keeley v. Com., State Real Estate Comm'n*, 93 Pa. Cmwlth. 291, 296, 501 A.2d 1155, 1158 (1985))
4. In that the 2017 Revocation Order was not appealed and has become final, the Board has no jurisdiction to amend or alter the 2017 Revocation Order without an order of the Commonwealth Court or an appeal therefrom. (Findings of Fact 2, 5; Sections 15, 15.2 of the Act, 63 P.S. §§ 235, 235.2)
5. In that at least 5 years have elapsed since the issuance of the 2017 Revocation Order, Petitioner is eligible to be reissued a license. (Finding of Fact 2; Sections 15, 15.2 of the Act, 63 P.S. §§ 235, 235.2)
6. The California crime of Voluntary Manslaughter for which Petitioner was convicted is equivalent to the Pennsylvania crime of Voluntary Manslaughter as defined at 18 Pa.C.S. § 2503, within the definition of a crime of violence at 63 Pa.C.S. § 3113(f) incorporating the definition at 42 Pa.C.S. § 9714(g). (*Compare*, Cal. Penal Code § 192(a) (West), 18 Pa.C.S. § 2503)

7. Petitioner has proven by a preponderance of the evidence that, based upon the nature of her criminal convictions, licensure of Petitioner would not present a threat to the health or safety of Petitioner's patients or the public. (Findings of Fact Nos. 6-58)

8. In that Petitioner received disciplinary action by the proper licensing authority in another state, territory, possession or country, the Board is authorized to refuse Petitioner's Reinstatement Petition or grant Petitioner's reinstatement subject to restrictions or probation under the authority of Sections 14(a)(6) and 14(b)(1, 3, 5). (Findings of Fact 7-10; 63 P.S. §§ 234(a)(6) & 234(b)(1, 3, 5))

9. In order to practice at any time after revocation, Petitioner is required to meet all of the licensing qualifications in the Act, including the examination requirement. (Section 15.2 of the Act, 63 P.S. § 235.2)

10. The record supports reissuance of Petitioner's license to probationary expired status and then to probationary active status upon her demonstration that she has passed the initial licensure examination. (Findings of Fact Nos. 6-58; Section 15.2 of the Act, 63 P.S. § 235.2; 49 Pa. Code § 21.30a)

DISCUSSION

Prior to reaching the merits of this matter, the Board must assure itself that its proceedings occurred in accordance with the requirements of Section 504 of the AAL, 2 Pa.C.S. § 504. An adjudication of a Commonwealth agency is valid only as to those parties that have “been afforded reasonable notice of a hearing and an opportunity to be heard.” 2 Pa.C.S. § 504. Adequate notice of administrative action is notice that is reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Clark v. Commonwealth, Dep’t. of Pub. Welfare*, 427 A.2d 712 (Pa. Cmwlth. 1981).

On March 7, 2024, Petitioner filed her Reinstatement Petition with the Board. A hearing on Petitioner’s Reinstatement Petition was subsequently held by video conference format on November 14, 2024. Petitioner participated in the video conference hearing and was represented by Richard Q. Hark, Esquire. Petitioner was provided the opportunity to testify on her own behalf, call witnesses in support of her case, offer exhibits into evidence, and object to the Commonwealth’s questions. The parties were also offered the opportunity to file post-hearing briefs; both declined. Based upon this procedural history, the Board can be satisfied that Petitioner received notice of the hearing and was given a reasonable opportunity to be heard.

Burden of proof

When applying for a license or seeking the reinstatement of a license, the burden of proof falls on the applicant/petitioner. See *Barran v State Bd of Medicine* 670 A.2d 765 (Pa.Cmwlth. 1996), *Long v. Bureau of Prof’l & Occupational Affairs*, 112 A.3d 671 (Pa.Cmwlth. 2015). The degree of proof required to establish a case before an administrative tribunal is a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600

(Pa. Cmwlth. 1990). A preponderance of the evidence is “the lowest degree of proof recognized in civil judicial proceedings.” *Id.* 578 A.2d at 602, citing *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950), and is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the proponent’s case must weigh slightly more than the opposing evidence. *Se-Ling Hosiery*, 70 A.2d at 856.

Demeanor and Credibility

In an administrative proceeding, the fact finder determines questions of the credibility of witnesses and the weight of the evidence. *See e.g., Nepa v. Department of Public Welfare*, 551 A.2d 354 (Pa. Cmwlth. 1988) (determination of the credibility of witnesses in health care providers' appeal is the province of the fact finder). In weighing any evidence, a factfinder “may rely on his or her experience [and] common sense” to arrive at a proper conclusion. *Commonwealth v. Segida*, 985 A.2d 871, 879 (Pa. 2009). *See also, Summers v. CertainTeed Corp.*, 997 A.2d 1152, 1161 (Pa. 2010) (“[t]he credibility of witnesses, professional or lay and the weight to be given their testimony is strictly within the proper province of the trier of fact”).

Each of the character/experience witnesses called by Petitioner presented excellently (especially given that they reside in California and were testifying relatively early in the morning, their local time). They were poised, knowledgeable, and confident.

Petitioner’s testimony was also credible, even though there were instances where it appeared she became slightly flustered while trying to calculate her support group attendance. This appeared to be attributable to the natural nervousness associated with testifying in a matter in which she was a party, and not due to an attempt to be deceptive. Petitioner did not exhibit

commonly understood physical traits of being under the influence of alcohol, such as bloodshot or glassy eyes, disheveled appearance, flushed face, slurred speech, being unable to sit straight, etc.

Evaluation

During the hearing, Petitioner's legal counsel posited that the Board's 2017 Revocation Order is now legally incorrect because Petitioner's criminal convictions in California were changed from charges including murder to a charge of voluntary manslaughter. For the reasons noted further below, the argument is somewhat academic given that, in practical terms, the proposed resolution of this matter is that Petitioner's license should be reissued, subject to general probationary terms. However, for purposes of disposing of Petitioner's argument, at this late date, the Board has no authority to revisit the 2017 Revocation Order, even if the underlying factual basis may have changed since it was ordered.

The Board's ability and jurisdiction to reopen and/or reconsider its own orders after they have been issued is not infinite. The Board's 2017 Revocation Order was issued on August 2, 2017, over seven and one-half (7 ½) years ago. There appears to be no dispute that, at the time it was issued, Petitioner stood convicted of each of the crimes referenced within the 2017 Revocation Order. By its terms, the Board's Order became immediately effective, with the sanction of revocation being imposed thirty (30) days after the mailing date of the order – September 1, 2017.

Even if Petitioner had requested reconsideration of the Order on August 18, 2017 (16 days after the order became effective), the Board would not have had jurisdiction to rehear or reconsider the 2017 Revocation Order. Specifically, Rule 35.241(a) of GRAPP provides that:

§ 35.241. Application for rehearing or reconsideration.

(a) **Form, filing and service.** An application for rehearing or reconsideration may be filed by a party to a proceeding within 15 days, or another period as may be expressly provided by statute applicable to the proceeding, after the issuance of an adjudication or other final order by the agency. The application shall be made by

petition, stating specifically the grounds relied upon.

1 Pa. Code § 35.241(a).

Courts have consistently held that the timeliness of a request for reconsideration filed under 1 Pa. Code § 35.241 is both jurisdictional and mandatory. A party's failure to timely request reconsideration deprives the issuing agency of the necessary jurisdiction to consider the request. *See e.g., Ciavarra v. Com.*, 970 A.2d 500 (Pa. Cmwlt. 2009), reiterating the holding in *Fleeher v. Department of Transportation, Bureau of Driver Licensing*, 850 A.2d 34 (Pa. Cmwlt. 2004). Because of the jurisdictional nature of Rule 35.241(a), even an agency order purporting to consider and then deny a request for reconsideration is improper. Instead, courts have indicated that because the agency no longer has the necessary jurisdiction to consider the request, a late-filed request for reconsideration must be simply dismissed as untimely. *See Flowers v. Pa. Bd. of Prob. & Parole*, 565 A.2d 185, 186 (Pa. Cmwlt. 1989). *See also Serrano v. Dep't of Human Servs.*, 322 A.3d 288 (Pa. Cmwlt. 2024).³

One whose license has been suspended or disciplined in some manner other than revocation still maintains a property right in that license. Because a property right in the license continues to exist, the Board does retain some jurisdiction over the license and individual and might theoretically have the authority to entertain a newly brought action seeking to alter the effects of a prior order based upon new information.

By contrast, the General Assembly has explicitly limited the authority of the Board to reconsider or modify a revocation order after it has become final. Section 15 of the Act, 63 P.S. § 235 (relating to suspensions and revocations, how made, notice, hearing, adjudication

³ Pursuant to Section 414(a) of the Commonwealth Court's Internal Operating Procedures, 210 Pa. Code § 69.414(a), an unreported panel decision of the Court issued after January 15, 2008, may be cited for its persuasive value, but not as binding precedent. All unreported opinions are cited for their persuasive value.

and appeal; reissuance of license), directs that "...[i]f a license has been revoked, the Board can reissue a license only in accordance with section 15.2." (Emphasis added). Turning then to Section 15.2 of the Act, it provides as follows:

Section 15.2. Reinstatement of License.--Unless ordered to do so by the Commonwealth Court or an appeal therefrom, the Board shall not reinstate the license of a person to practice nursing or dietetics-nutrition which has been revoked. Any person whose license has been revoked may reapply for a license, after a period of at least five (5) years, but must meet all of the licensing qualifications of this act for the license applied for, to include the examination requirement, if he or she desires to practice at any time after such revocation.

63 P.S. § 235.2 (underlining added).

Consequently, after an order revoking a license becomes final, the only two (2) ways in which the Board regains any authority to reissue a license are (1) if the Commonwealth Court or an appellate court above the Commonwealth Court orders the Board to reinstate the license, or (2) five (5) years elapse since the revocation. *See e.g., Izzi v. Bureau of Professional and Occupational Affairs*, 1420 C.D. 2013, 2014 WL 803622 (Pa. Cmwlth. Feb. 27, 2014) (holding that the State Real Estate Commission lacked discretion to entertain a license reinstatement request earlier than five (5) years after the revocation without order of the Commonwealth Court; therefore, letter issued by State Real Estate Commission's legal counsel summarily denying application for reinstatement approximately two (2) years after revocation order could not be an adjudication under the AAL because it could not possibly affect any rights held by Izzi).

The appeal period for the 2017 Revocation Order has expired, and Petitioner has not obtained an order from an appellate court ordering the Board to reinstate the license. Consequently, the Board is powerless to amend the Revocation Order on its own at this time.⁴

⁴ It is observed that the Revocation Order made the conclusion of law that it could impose discipline upon Petitioner because she had been convicted of four (4) felonies. With her revised guilty pleas, it appears Petitioner has pled guilty to at least one, and potentially up to three (3) felonies. It is possible that the Board would have seen fit to revoke Petitioner's license even if it been presented with the revised guilty plea information at the time of the prior disciplinary

It is observed, however, that in this case, more than five (5) years have elapsed since the Board revoked Petitioner's license. Therefore, while the Board cannot reconsider or amend its 2017 decision to revoke Petitioner's license, the Board does now have the explicit authority and jurisdiction under Section 15.2 of the Act, 63 P.S. § 235.2, to consider whether Petitioner's license should be reissued. The five (5) year waiting period set forth in Section 15.2 is considered an additional procedural qualification for licensure and does not affect any substantive right Petitioner may have held in her former license. *Pittenger*, 596 A.2d at 1230. Finally, it is important to note that for purposes of evaluating whether the Board should grant Petitioner's petition, because Petitioner's license was revoked, she starts from a position of having no property right in her former license – she has been returned to the same position as if she had never held the license previously. *McGrath*, 173 A.3d 656; *Pittenger*, 596 A.2d 1227; *Keeley*, 501 A.2d 1155.

Turning then to whether the reissuance/reinstatement of Petitioner's license is appropriate today, Petitioner approaches the board having been convicted of several crimes in California, which relate back to the incident in 2014. Petitioner's Reinstatement Petition here in Pennsylvania, as well as her April 19, 2023, application for reinstatement in California, state that Petitioner's murder conviction was vacated. However, Petitioner acknowledges that she was not completely exonerated. Instead, in 2021, she entered into revised guilty pleas in resolution of the criminal charges against her. While the murder conviction was removed, Petitioner disclosed in her reinstatement petitions, both here and in California, that she entered guilty pleas to violating California Penal Code §§ 192(a) and 245(a)(1), as well as California Vehicle Code provision 20001(B)(2). The pertinent portions of those provisions provide, respectively, as follows:

§ 192. Manslaughter; voluntary, involuntary, and vehicular

hearing.

Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary--upon a sudden quarrel or heat of passion.

* * * * *

§ 245. Assault with deadly weapon or force likely to produce great bodily injury; punishment

(a)(1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

* * * * *

§ 20001. Duty to stop at scene of injury accident; penalties

(a) The driver of a vehicle involved in an accident resulting in injury to a person, other than himself or herself, or in the death of a person shall immediately stop the vehicle at the scene of the accident and shall fulfill the requirements of Sections 20003 and 20004.

(b)(1) Except as provided in paragraph (2), a person who violates subdivision (a) shall be punished by imprisonment in the state prison, or in a county jail for not more than one year, or by a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(2) If the accident described in subdivision (a) results in death or permanent, serious injury, a person who violates subdivision (a) shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than 90 days nor more than one year, or by a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or by both that imprisonment and fine. However, the court, in the interests of justice and for reasons stated in the record, may reduce or eliminate the minimum imprisonment required by this paragraph.

* * * * *

Cal Penal Code §§ 192(a) and 245(a)(1) (West), Cal. Vehicle Code § 20001(b)(2)(West).

With respect to the punishment applicable to Petitioner's guilty plea to Cal. Penal Code § 192(a) (relating to voluntary manslaughter), Petitioner was subject to imprisonment "in the state prison for 3, 6, or 11 years." Cal. Penal Code § 193(a) (West). Therefore, at a minimum, Petitioner's voluntary manslaughter conviction would be classified as a felony. Her other two (2) convictions might also be classified as felonies; however, Petitioner did not include with her

reinstatement documentation a copy of her plea or other information indicating the grading of those matters. Given the factual underpinning of each of the convictions and that they all relate to the same course of conduct, the final determination in this case would not change, regardless of whether she was convicted of only one (1) felony, or potentially three (3) felonies, as the criminal provisions authorize.

Notwithstanding the Board's exercise of discretion under the Act, because reinstatement would follow discipline based upon Petitioner's criminal convictions, it is appropriate also to consider the provisions of 63 Pa.C.S. § 3113 (relating to consideration of criminal convictions). *See*, 63 Pa.C.S. § 3113(a) (this section shall apply to licensing boards notwithstanding any other statutory provision to the contrary regarding consideration of crimes of moral turpitude, 18 Pa.C.S. § 9124(c), or any other statutory provision that disqualifies an individual from holding a license due to the individual's criminal conviction). Section 3113 applies to any official act or matter, including disciplinary matters, related to the issuance of licenses, certificates, registrations or permits by licensing boards beginning December 28, 2020. Section 5 of the act of July 1, 2020 (P.L. 575, No. 53). *See also*, 18 Pa.C.S. § 9124(a.1) (§ 3113 and certain other provisions of ch. 31 “**shall apply** to a licensing board ... with respect to refusing to issue or renew, suspending, revoking or limiting a license”). In short, Chapter 31 does have the potential to control the evaluation of this matter, despite what the ruling in *Ghaderi v. State Bd. of Osteopathic Med.*, 302 A.3d 240 (Pa. Cmwlth. 2023) might appear to indicate on its face.

In *Ghaderi*, an osteopathic physician applied for reinstatement of his license after it was indefinitely suspended pursuant to a Consent Agreement and Order. Dr. Ghaderi pled *nolo contendere* to one (1) count of misdemeanor Indecent assault, in violation of 18 Pa.C.S. § 3126(a)(1), resulting from his indecent assault of a patient. At the time that the

Osteopathic Board approved and adopted the Consent Agreement which Dr. Ghaderi had agreed to, Pennsylvania law did not prohibit him from seeking the reinstatement of his license, and the provisions of the Consent Agreement specifically contemplated Dr. Ghaderi applying for reinstatement by demonstrating his ability to practice safely and competently.

Subsequent to both the underlying criminal conduct and the approval of the Consent Agreement by the State Board of Osteopathic Medicine, Chapter 31 was enacted by the General Assembly, and includes a specific prohibition on health care licensing boards from issuing licenses or otherwise allowing an individual to practice as a health care practitioner if the individual had been convicted of a sexual offense, such as Dr. Ghaderi's *nolo contendere* plea to indecent assault.

Dr. Ghaderi applied for the reinstatement of his license, which the Board denied based upon the newly enacted provision in Chapter 31 related to convictions for a sexual offense. Dr. Ghaderi appealed. In reversing the State Board of Osteopathic Medicine's determination, the Commonwealth Court agreed with the hearing examiner that Dr. Ghaderi maintained a "vested property right" in his suspended osteopathic medical license and could not be deprived of that right by a retroactive application of the law without clear intent by the General Assembly.

In contrast to Dr. Ghaderi's suspended license and the continuing property interests he held in that suspended license (*See e.g., Brown v. Com., State Bd. of Pharmacy*, 129 Pa. Cmwlth. 642, 566 A.2d 913 (1989) holding that an individual maintains a property right in a suspended license), all of Petitioner's rights in her former Pennsylvania nursing license were extinguished through the 2017 Revocation Order. *See McGrath*, 173 A.3d 656; *Pittenger*, 596 A.2d 1227; *Keeley*, 501 A.2d 1155. Consequently, the concern that retroactive application of Chapter 31 might affect a property right held by Petitioner in her former license is not present in this matter. She is coming to the

Board in a position as if she never held a license before, and therefore Chapter 31's provisions apply to the consideration of her application to be reissued a license.

Analysis of Convictions Pursuant to Chapter 31

Chapter 31 provides a statutory framework for Boards to analyze whether a criminal conviction should be the basis to deny a license or impose discipline upon a licensee. Chapter 31 includes three (3) carveouts from the general procedure for evaluating criminal convictions set forth in 63 Pa.C.S. § 3113(b & c) when the individual has been convicted of a crime which falls within the definition of a crime of violence, a sexual offense, or a drug trafficking offense. *See*, 63 Pa.C.S. § 3113(b, d-f). The special carveouts for sexual offenses and drug trafficking offenses clearly do not apply to the case of Petitioner, as there are no facts or allegations which might indicate that her crimes involved sexual conduct or trafficking of drugs.

There is, however, concern that Petitioner's guilty pleas in California to voluntary manslaughter and/or assault with deadly weapon or force likely to produce great bodily injury might constitute a crime of violence for purposes of Chapter 31. Section 3113 provides as follows:

Section 3113. Consideration of criminal convictions

* * * * *

(e) Crimes of violence.--An individual convicted of a crime of violence as defined in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent offenses) may be granted a license, registration, certificate or permit by a licensing board or licensing commission if all of the following apply:

- (1) If the individual was incarcerated, at least three years have elapsed since release from incarceration. The period of three years shall be tolled for a violation of parole.
- (2) If the individual is serving a sentence other than a period of confinement in a State or county correctional facility, at least three years have elapsed since imposition of sentence.
- (3) The individual has remained conviction-free during the periods specified in paragraph (1) or (2).
- (4) The individual demonstrates significant rehabilitation since the criminal conviction.
- (5) The licensing board or licensing commission determines, by using the factors in subsection (c), except for subsection (c)(8), that licensure of the individual does not pose a substantial risk to the health and safety of the individual's patients or clients or the public or a substantial risk of further

criminal convictions.

* * * * *

(g) Definition.--As used in this section, the term "crime of violence" means murder of the third degree, **voluntary manslaughter**, manslaughter of a law enforcement officer as defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer), murder of the third degree involving an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to murder of unborn child), aggravated assault of an unborn child as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child), **aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault)**, assault of law enforcement officer as defined in 18 Pa.C.S. § 2702.1 (relating to assault of law enforcement officer), use of weapons of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2) (relating to terrorism), strangulation when the offense is graded as a felony as defined in 18 Pa.C.S. § 2718 (relating to strangulation), trafficking of persons when the offense is graded as a felony of the first degree as provided in 18 Pa.C.S. § 3011 (relating to trafficking in individuals), rape, involuntary deviate sexual intercourse, aggravated indecent assault, incest, sexual assault, arson endangering persons or aggravated arson as defined in 18 Pa.C.S. § 3301(a) or (a.1) (relating to arson and related offenses), ecoterrorism as classified in 18 Pa.C.S. § 3311(b)(3) (relating to ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S. § 3502(a)(1) (relating to burglary), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery of a motor vehicle, drug delivery resulting in death as defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death), or criminal attempt, criminal conspiracy or criminal solicitation to commit murder or any of the offenses listed above, or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense **or an equivalent crime in another jurisdiction.**

63 Pa.C.S. § 3113 (emphasis added).

No explicit guidance is given in either Chapter 31 or the Schedule of Offenses how the Board is to ascertain whether an offense from another jurisdiction is “equivalent to” the listed Pennsylvania offenses. Consequently, it is necessary to consider the best-practice method endorsed by all three (3) of Pennsylvania’s appellate courts for gauging the equivalency of in- and out-of-state offenses. That method requires an evaluation of the elements of the in-state and out-of-state offenses to determine whether the foreign offense shares all of the elements of a pertinent Pennsylvania offense. *See A.L. v. Pa. State Police*, 274 A.3d 1228 (Pa. 2022); *see also O’Neill v. State Employees’ Retirement Sys.*, 280 A.3d 873, 882-86 (Pa. 2022) (discussing *A.L.*). Thus, if the

elements are identical, or if the foreign offense is narrower than the Pennsylvania offense such that the conduct proscribed by the foreign statute is captured entirely by the Pennsylvania statute, then the two offenses are equivalent. *A.L.* at 1233. However, if the elements of the foreign offense cover a broader range of conduct than the elements of the in-state offense, then the two are not equivalent. *A.L.* at 1238-40. And because both Chapter 31 and the Schedule of Offenses are concerned with *convictions* and not *acts*, only the elements of the statutes should be analyzed when determining equivalency, without reference to the actual manner in which the Petitioner committed the offense. *A.L.* at 1234-35.

By title alone, both the crimes of voluntary manslaughter and assault with deadly weapon or force likely to produce great bodily injury have the potential to be considered a crime of violence in Pennsylvania, assuming the crimes in Pennsylvania and California are the same. Starting with voluntary manslaughter, the definitions of those crimes in the respective states are:

Pennsylvania

§ 2503. Voluntary manslaughter.

(a) General rule.--A person who kills an individual without lawful justification commits voluntary manslaughter if at the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by:

- (1) the individual killed; or
- (2) another whom the actor endeavors to kill, but he negligently or accidentally causes the death of the individual killed.

(b) Unreasonable belief killing justifiable.--A person who intentionally or knowingly kills an individual commits voluntary manslaughter if at the time of the killing he believes the circumstances to be such that, if they existed, would justify the killing under Chapter 5 of this title (relating to general principles of justification), but his belief is unreasonable.

California

§ 192. Manslaughter; voluntary, involuntary, and vehicular

Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

- (a) Voluntary--upon a sudden quarrel or heat of passion.

As may be observed, all elements of the California offense of manslaughter in violation of § 192(a) fit squarely within the definition of the Pennsylvania offense of voluntary manslaughter in violation of § 2503(a). Unlawfully killing a human being without malice upon a sudden quarrel or heat of passion is equivalent to killing an individual without lawful justification when acting under a sudden and intense passion resulting from serious provocation. The California offense of voluntary manslaughter is equivalent to the Pennsylvania offense of voluntary manslaughter for purposes of 63 Pa.C.S. § 3113(e) and 42 Pa.C.S. § 9714.

Petitioner was thus convicted of a crime of violence. The Board may reinstate Petitioner's license if all the provisions of subsection 3113(e) apply. Petitioner was incarcerated in California for her convictions. She was paroled on July 21, 2021, and more than 3 years have elapsed since Petitioner's release from incarceration. Petitioner has not been convicted of any crimes since her revised guilty pleas; she has remained conviction-free since her release from incarceration. The first two threshold requirements of subsection 3113(e) have been established.

The final threshold requirement of subsection 3113(e) is whether Petitioner has demonstrated significant rehabilitation since the criminal conviction. On January 5, 2014, while attempting to leave their property following a drunken fight, Petitioner inadvertently struck the gate with her vehicle and knocked it into her fellow alcoholic partner of 15 years, which knocked him backward to the ground and severely injured him. Following a series of mistakes made related to his care, Petitioner's partner died from his injuries. Petitioner was devastated. She had not been allowed to see him in the hospital. At the time Petitioner committed the crimes, Petitioner suffered from an alcohol use disorder and regularly drank/utilized alcohol. Petitioner had one drink of alcohol in prison on December 24, 2016; the one drink made Petitioner feel "horrible" and she "regretted it." Petitioner dates her sobriety date from December 24, 2016. In 2019 and while

incarcerated, Petitioner completed Options Drug and Alcohol Counselors School and became a certified substance use disorder counselor in California in 2021. While incarcerated, Petitioner participated in Emotions Anonymous (EA) Support Group, Celebrate Recovery, Alcoholics Anonymous (AA), and Narcotics Anonymous (NA). Petitioner estimates that she attended approximately 1050 AA, and NA and EA meetings during her period of incarceration, and approximately 2000 meetings when calculating both her attendance during, as well as after, incarceration. Petitioner is not currently taking any medication to inhibit her ability to drink. Petitioner has a support system of family members in the Robesonia, Pennsylvania area consisting of several siblings, her uncle, and their respective partners. While incarcerated, Petitioner served as the prison librarian, completed all classes that were offered, and obtained her associate degree in sociology. Additionally, the California Board necessarily found that Petitioner had completed significant rehabilitation in determining that it should reinstate Petitioner's license to practice nursing in that state upon her passing the appropriate examination and demonstrating current competence. Petitioner has demonstrated significant rehabilitation.

Having found that Petitioner has demonstrated significant rehabilitation, the Board must determine, using the balance of the factors of subsection 3113(c) other than (8), whether licensure of Petitioner would pose a substantial risk to the health and safety of the individual's patients or clients or the public or a substantial risk of further criminal convictions. The factors of the individualized assessment are as follows:

(c) Individualized assessment.—A licensing board or licensing commission shall conduct an individualized assessment of the individual with respect to criminal convictions and rehabilitation. The licensing board or licensing commission shall only consider the following factors in order to determine whether the individual meets the requirements for issuance of a license, certificate, registration or permit under subsection (b)(1) or (b)(2):

(1) Whether the criminal conduct for which the individual was convicted involved an act or threat of harm against the individual. For

purposes of this paragraph, the term “harm” includes harm to the victim, the personal property of the victim or reputation of the victim.

- (2) The facts and circumstances surrounding the criminal conviction.
- (3) The number of criminal convictions.
- (4) Increase in age or maturity of the individual since the date of the criminal conviction.
- (5) The individual’s criminal history or lack of criminal history after the date of conviction.
- (6) Successful completion of education and training activities, including those in a county correctional facility or the Department of Corrections.
- (7) References from employers or others, including personnel of the county correctional facility or the Department of Corrections.
- (8) Progress in personal rehabilitation since the conviction.
- (9) Whether the individual meets all other licensing qualifications of the applicable practice act, including any examination requirements.
- (10) The individual’s criminal history, or lack of criminal history, after the date of the criminal conviction while engaged in the same or similar profession or occupation.
- (11) Any other factor deemed relevant to the licensing board or licensing commission regarding the fitness of the individual for licensure.

63 Pa.C.S. § 3113(c).

Factor One--Act or threat of harm against the individual

The conduct underlying Petitioner’s conviction did not involve an act or threat of harm against Petitioner, but rather she and her partner were in the middle of a disagreement when she accidentally struck him with her car while under the influence of alcohol and severely injured him. He later died from complications related to his hospitalization. This factor weighs against Respondent.

Factor Two--Facts and circumstances surrounding the criminal convictions

According to Petitioner, she was drinking at the time and regrettably decided to drive her car, after which she struck and injured her partner. Therefore, this factor weighs against Respondent.

Factor Three--Number of criminal convictions

The record reflects that Petitioner was convicted in California in 2015 for 1) Assault with a Deadly Weapon (felony), in violation of California Penal Code § 245(a)(1); 2) Injuring a Spouse, Cohabitant, Fiancé, Boyfriend, Girlfriend or Child's Parent (felony), in violation of California Penal Code § 273.5(a); 3) Murder (felony), in violation of California Penal Code § 187(a); and 4) Gross Vehicular Manslaughter While Intoxicated (felony), in violation of California Penal Code § 191.5(a). Along with costs and restitution, Petitioner was sentenced to 16 years to life in prison. This Board and the California Board revoked Petitioner's licenses as a result of these convictions. In 2021, because of the presentation of new evidence, Petitioner's initial convictions were reversed, and she was permitted to revise her guilty plea to Cal. Penal Code § 192(a) (West) relating to manslaughter; voluntary, involuntary and vehicular; Cal. Penal Code § 245(a)(1) (West) (relating to assault with a deadly weapon or force likely to produce great bodily injury; punishment); and Cal. Penal Code § 20001 (West) (relating to duty to stop at scene of injury accident; penalties). This change in circumstances weighs in Petitioner's favor.

Factor Four--Increase in age or maturity since the conviction

Petitioner's convictions occurred in 2015, approximately ten years ago. The conduct underlying Petitioner's convictions took place in 2014. Since the time of Petitioner's convictions, she has demonstrated remorse and accepted responsibility for the actions leading to her convictions, has undergone treatment for substance abuse, has attended hundreds of AA and NA meetings, and has completed work to better herself and help others. She has also completed numerous continuing education credits and has also studied to become an addictions counselor. This factor weighs heavily in Petitioner's favor.

Factor Five--Post-conviction criminal history or lack thereof

The record reflects that Petitioner has not had any additional convictions. Petitioner was

paroled from prison on June 12, 2021, for what was to be two years, but she was released early after one year. As such, this factor weighs in Petitioner's favor.

Factor Six--Successful completion of education and training activities

Petitioner was incarcerated in California for approximately 6 years. Since her release in 2021, Petitioner has completed dozens of courses in continuing education and has taken a refresher course in preparation for retaking the NCLEX. Therefore, this factor weighs heavily in Petitioner's favor.

Factor Seven--References from employers or others

Petitioner presented the testimony of four-character witnesses, all of whom were nurses and either supervised Petitioner or worked with Petitioner as colleagues during Petitioner's time in practice as a nurse in California. All these witnesses were aware of Petitioner's criminal history, and all testified to her caring, competent, and compassionate practice as a nurse. These witnesses knew Petitioner for decades and supported Petitioner in her efforts to reinstate her license in California and offered the same support to Petitioner at the present hearing. Despite their knowledge of Petitioner's criminal past, none of these witnesses voiced any concerns regarding Petitioner's return to the practice of nursing. Petitioner additionally presented the documentation presented to the California Board in support of her reinstatement petition there. Included were over a dozen letters of recommendation as well as countless certificates of continuing education Petitioner has completed since the time of her incarceration. The testimony of these witnesses, as well as these numerous letters of recommendation, weigh in Petitioner's favor.

Factor Eight--Progress in personal rehabilitation

As discussed above, Petitioner has established substantial rehabilitation.

Factor Nine--Meets all other licensing qualifications

Petitioner's California license was reinstated, subject to the requirements of reactivation, such as retaking the NCLEX, after which she would automatically be enrolled in an impaired professionals monitoring program. Petitioner's Pennsylvania license is currently revoked, and if reinstated, she will be similarly subject to having to retake the NCLEX exam to reactivate her license and be able to practice the profession again. Because Petitioner will be required to demonstrate all requirements for licensure as part of her application and to reactivate her license, this factor is given no weight in determining whether to reinstate Petitioner's license.

Factor Ten—Criminal history since conviction in the profession

Petitioner has had no additional criminal charges since her convictions or her release from prison in 2021, and she further earned an early release from parole. As such, this factor weighs in Petitioner's favor.

Factor Eleven--Other factors

There are no additional factors to consider.

Weighing these factors together with the significant rehabilitation demonstrated by Petitioner, the Board concludes that – so long as she demonstrates fitness as a nurse by practicing for 3 years while in compliance with terms of probation – licensure of Petitioner would not pose a substantial risk to the health and safety of Petitioner's patients or clients or the public or a substantial risk of further criminal convictions. Under the circumstances, the record supports the reinstatement of Petitioner's license to probationary status for 3 years.

Petitioner presented several witnesses who previously worked with Petitioner in California and who oftentimes had supervisory roles over, or in conjunction with, Petitioner. Each testified to her skill and ability as a nurse, dedication to her patients, and Petitioner's efforts to be the best nurse she could. As with other health care professions, the practice of nursing is ever evolving,

and the underlying scientific knowledge is expanding. There is naturally some deficit in knowledge which was created by Petitioner's extended time away from the profession, even with her completion of continuing education and refresher courses.

Section 15.2 of the Act, 63 P.S. § 235.2, indicates that Petitioner must satisfy the examination requirement in order to be allowed to resume practice after revocation. From Petitioner's testimony, it appears that she has not yet taken any nursing examination since the Pennsylvania Revocation Order and California Reinstatement Order. Therefore, to the extent Petitioner's license is reissued, it could only happen after she has taken and passed an appropriate examination.

In Petitioner's Reinstatement Petition, as well as the exhibits Petitioner submitted during the hearing and her testimony, there are numerous references to Petitioner having suffered from a substance use disorder with respect to alcohol use prior to her incarceration. That incarceration, however, began approximately a decade ago. Petitioner's Reinstatement Petition and testimony represented that she has not consumed alcohol since December 2016 –over 8 years ago. This testimony appears especially credible given that, in the interim, Petitioner has gained certifications as a substance abuse counselor in 2019 and submitted significant documentation indicating attendance at dependence-related support groups. During questioning, Petitioner was asked whether “anybody [had] ever said that you suffer, since your conviction, from a drug or alcohol addiction or impairment,” to which Petitioner responded, “[w]ell, I think you always have it [alcohol addiction],” before clarifying that no one has said that she suffered from an impairment since her conviction. (N.T. 48-49). In short, apart from her own described status as an “alcoholic” when she committed the criminal acts over a decade ago, there was nothing about her testimony

or demeanor while testifying that might lead one to conclude that she suffers from an impairment today, which might make her a danger to the public health and safety.

Finally, Petitioner does stand before the Board as the subject of both historic and recent licensure actions by the California Board. The initial disciplinary action was based on the same factors that led to the Pennsylvania Board's 2017 Revocation Order and therefore would not be a reason for this Board to deny reissuance of a license.

However, that is not the only order issued by California regarding Petitioner. Petitioner also petitioned for reinstatement before the California Board in 2023. In 2024, California, the jurisdiction in which she most recently held an active license and had practiced for 20 years prior to her incarceration, felt it was necessary to place Petitioner on three (3) years of probation when reinstating her license. Petitioner acknowledges that she has not taken the applicable examination and therefore has not completed the requirements for reinstatement in California. Under the terms of the California reinstatement order, Petitioner's probationary period will only begin after she satisfies that reinstatement requirement. Petitioner further indicated in her testimony and Reinstatement Petition that she does not intend to resume practice in California – she has moved back to Pennsylvania, where her family is located, and the cost of living is lower, and she wishes to practice here.

Ultimately, it is Petitioner's burden to demonstrate that the Board should reissue her license. In general, Petitioner has shown that her criminal convictions and prior history of abusing alcohol should not impede reissuance of her Pennsylvania license. Section 15.2 of the Act requires Petitioner to satisfy the examination requirement prior to the reissuance of her license, and her testimony indicates that she has not met that requirement yet. The need to pass a reinstatement examination is somewhat common and can be resolved in the same manner as in California,

namely, granting reissuance of the license upon submission of evidence that she has passed the requisite licensure examination. Finally, because she was subject to a licensure action in California in the form of a three (3) year probationary term in a state where she does not intend to practice, it is appropriate to impose a similar restriction on her license here in Pennsylvania, where she does intend to practice.⁵

Wherefore, the Board orders as follows:

⁵ Pursuant to Article III(c)(5) of the Nurse Licensure Compact Act (NLCA), [35 P.S. §§10292](#), in light of the discipline imposed under this Order, you are not eligible to apply for or hold a multistate license until this license has been fully reinstated to unrestricted status.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING**

In the Matter of the Petition	:	
For Reinstatement of the License to	:	
Practice Professional Nursing of	:	Case No. 24-51-004100
Mary Jo Bross, a/k/a Mary Jo Meyer, RN,	:	
Petitioner	:	

FINAL ORDER

AND NOW, this 8th day of September 2025, the State Board of Nursing, having duly convened and considered the entire record and based upon the foregoing findings of fact, conclusions of law and discussion, hereby **ORDERS** the license to practice professional nursing of Mary Jo Bross, a/k/a Mary Jo Meyer, RN, license no. RN259152L, be **REINSTATED** to expired, probationary status.

Upon completion of all administrative requirements for reactivation, including retaking and passing the NCLEX, Petitioner's license shall be reactivated to **PROBATION FOR NO LESS THAN THREE (3) YEARS** subject to the following terms and conditions:

GENERAL

1. Petitioner shall abide by and obey all federal and state laws, including, but not limited to, statutes, rules and regulations.
2. The filing of criminal charges, other than summary traffic violations, or the initiation of a professional disciplinary matter against Petitioner shall constitute a violation of this Order.
3. Unless otherwise directed, Petitioner's professional employer, and any other person needing or required to make reports under this Order concerning Petitioner's practice and contact information, shall cause those reports, data or other information to be provided to BEI at:

Probation Compliance Officer
Bureau of Enforcement and Investigation
P.O. Box 2649
Harrisburg, PA 17105-2649
717-783-7228

4. Petitioner shall notify the probation compliance officer, in writing, within twenty (20) days, of the following:

- a. the filing of criminal charges;
- b. the disposition of any criminal charge including, but not limited to, a conviction, an admission of guilt, a nolo contendere plea, the imposition of probation without verdict, a disposition in lieu of trial or entry into an Accelerated Rehabilitative Disposition (ARD) program;
- c. the initiation of a professional disciplinary matter or any disciplinary action imposed by the professional licensing authority of any state or jurisdiction; and
- d. any other legal action (civil or administrative) pertaining to the practice of the profession at issue.

5. Petitioner shall notify the probation compliance office, in writing, within (20) twenty days of the Board's adoption of this Final Order, of any actions set forth in the preceding paragraph that occurred within one (1) year prior to the Board's adoption of this Final Order.

6. Petitioner shall cooperate with the Commonwealth and the Bureau of Enforcement and Investigation (BEI), in the monitoring, supervision, and investigation of Petitioner's compliance with the terms and conditions of this Order.

7. Petitioner shall cause to be submitted at Petitioner's own expense written reports, records, and verifications of actions that may be required by the Commonwealth and BEI.

8. Petitioner shall:

a. provide written notice to the probation compliance officer of the name(s) and address(es) of the place(s) at which Petitioner will practice within seventy-two (72) hours of the Board's adoption of this Final Order;

b. provide written notice to the probation compliance officer, within seventy-two (72) hours, of any change in the name(s) and address(es) of the place(s) at which Petitioner will practice;

c. provide written notice to the probation compliance officer, within seventy-two (72) hours, of a change in Petitioner's home address or telephone number; and

d. electronically update the Board's records within seventy-two (72) hours of a change of Petitioner's address and telephone number on file with the Board.

9. If self-employed, Petitioner shall submit a written verification of self-employment, along with substantiating documentation, to the probation compliance officer within fifteen (15) days of adoption of this Final Order by the Board or within fifteen (15) days of becoming self-employed.

10. Petitioner consents to the release by the Commonwealth or BEI of any information or data produced as a result of this probation to any professional employer or prospective professional employer.

11. Petitioner shall not falsify, misrepresent, or make material omission of any information submitted pursuant to this Order.

12. Petitioner's failure to fully cooperate and successfully comply with the terms and conditions of probation shall be deemed a violation of this Order.

13. Petitioner shall make a written request for reinstatement to non-probationary status at the end of the minimum probationary period to:

Board Counsel P.O. Box 69523 Harrisburg, PA 17106-9523
--

14. Reinstatement shall be subject to the completion of any administrative requirements.

15. Reinstatement to non-probationary status shall be subject to the Board's determination that Petitioner has complied with all terms and conditions of the probation imposed by this Order. The Board reserves the right to schedule a hearing to determine Petitioner's compliance.

VIOLATION OF THIS ORDER

16. Notification of a violation of the terms or conditions of this Order shall result in the TERMINATION of the period of probation, and ACTIVATION of the suspension of Petitioner's license(s) to practice the profession in the Commonwealth of Pennsylvania as follows:

a. The prosecuting attorney for the Commonwealth shall present to the Board's Probable Cause Screening Committee (Committee) a Petition that indicates that Petitioner has violated any terms or conditions of this Order.

b. Upon a probable cause determination by the Committee that Petitioner has violated any of the terms or conditions of this Order, the Committee shall, without holding a formal hearing, issue a preliminary order vacating the stay of the within suspension, terminating this probation and activating the suspension of Petitioner's license.

c. Petitioner shall be notified of the Committee's preliminary order within three (3) business days of its issuance by certified mail and first-class mail,

postage prepaid, sent to the Petitioner's last registered address on file with the Board, or by personal service if necessary.

d. Within twenty (20) days of mailing of the preliminary order, Petitioner may submit a written answer to the Commonwealth's Petition and request that a formal hearing be held concerning Petitioner's violation of probation, in which Petitioner may seek relief from the preliminary order activating the suspension. Petitioner shall mail the original answer and request for hearing to the Bureau of Professional and Occupational Affairs' Prothonotary, P.O. Box 60130, Harrisburg, PA 17110, and a copy to the prosecuting attorney for the Commonwealth, as well as all subsequent filings in the matter.

e. If the Petitioner submits a timely answer and request for a formal hearing, the Board or a designated hearing examiner shall convene a formal hearing within forty-five (45) days from the date of the Prothonotary's receipt of Petitioner's request for a formal hearing.

f. Petitioner's submission of a timely answer and request for a hearing shall not stay the suspension of Petitioner's license under the preliminary order. The suspension shall remain in effect unless the Board or the hearing examiner issues an order after the formal hearing staying the suspension again and reactivating the probation.

g. The facts and averments in this Order shall be deemed admitted and uncontested at this hearing.

h. If the Board or hearing examiner after the formal hearing makes a determination against Petitioner, a final order will be issued sustaining the

suspension of Petitioner's license and imposing any additional disciplinary measures deemed appropriate.

i. If Petitioner fails to timely file an answer and request for a hearing, the Board, upon motion of the prosecuting attorney, shall issue a final order affirming the suspension of Petitioner's license.

j. If Petitioner does not make a timely answer and request for a formal hearing and a final order affirming the suspension is issued, or the Board or the hearing examiner makes a determination against Petitioner sustaining the suspension of Petitioner's license, and any additional imposed discipline, Petitioner may petition the Board for reinstatement upon verification that Petitioner has complied with the Board's order, abided by and obeyed all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions, and all rules and regulations pertaining to the practice of the profession in this Commonwealth.

k. Petitioner's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

17. Nothing in this Order shall preclude the prosecuting attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Order.

COMPLETION OF PROBATION

18. After successful completion of the minimum period of probation, Petitioner may petition the Board, to reinstate Petitioner's authorizations to practice the profession to unrestricted, non-probationary status upon an affirmative showing that Petitioner has complied with all terms and conditions of this Order and that Petitioner's resumption of unsupervised practice does not

present a threat to the public health and safety. **Petitioner is required to remain in compliance with all terms and conditions of this Order until the Board issues the order terminating Petitioner's probationary status.** Any petition to reinstate her license to non-probationary status shall include:

- a. A current criminal history background check from the state criminal authority in all states where Petitioner has resided since the entry of the Order placing her license on probation; and
- b. A verification that she has not practiced in violation of the order placing her license on probation.

This Order is effective immediately.

BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



**ARION R. CLAGGETT
ACTING COMMISSIONER**

STATE BOARD OF NURSING



**COLBY P. HUNSBERGER, DNP, RN, CNECL
CHAIR**

For Petitioner:

Richard Q. Hark, Esquire
HARK & HARK
32 Parking Plaza, Suite 401
Ardmore, PA 19003-2438
richard.hark@penncriminaldefense.com

(Email Service only)

Prosecuting Attorney:

T'rese M. Evancho, Esquire

Board Counsel:

Megan E. Castor, Esquire

Date of Mailing:

September 8, 2025

NOTICE

The attached Adjudication and Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled “Judicial Review of Governmental Determinations,” Pa. R.A.P. 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Board with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Board Counsel
P.O. Box 69523
Harrisburg, PA 17106-9523

The name of the individual Board Counsel is identified on the Order page of the Adjudication and Order.