

**BEFORE THE ALABAMA BOARD OF NURSING**

**IN THE MATTER OF:** )  
 )  
**STEPHEN BRANT EBERHART** )  
 )  
**Petitioner.** )

**DECLARATORY RULING**

COMES NOW the Alabama Board of Nursing, by and through its Executive Officer, N. Genell Lee, RN, MSN, JD, and issues the following declaratory ruling:

**FINDINGS OF FACT**

1. On or about April 19, 2011, Eberhart submitted to the Alabama Board of Nursing an online application for licensure as a registered nurse by endorsement. In March 2007, Eberhart earned an associate degree in nursing from Excelsior College (Excelsior). The Excelsior associate degree in nursing program does not include clinical learning experiences, but rather offers a Clinical Performance in Nursing Examination. Prior to enrolling with Excelsior, Eberhart was a registered respiratory therapist (RRT). In 1994, Eberhart earned a bachelor's degree in Respiratory Therapy from Georgia State University. From 2007 until the present Eberhart has been employed as a registered nurse (RN) at Wellstar Douglas Hospital in Douglasville, Georgia. Eberhart did not present any evidence of having completed any nursing coursework prior to enrollment at Excelsior.
2. By letter of June 17, 2011, Eberhart was informed that he did not meet the requirements for licensure in Alabama because he did not have both theory and clinical in the areas of adult, maternal-infant, pediatric and psychiatric nursing. He was informed that the clinical performance evaluation used by Excelsior is not clinical for purposes of a pre-licensure program. Eberhart was informed that he could petition the Board for a declaratory ruling exempting him from the rules that govern licensure and nursing education.
3. On August 19, 2011, the Board received Eberhart's petition for a declaratory ruling seeking relief from Alabama Board of Nursing Administrative Code §§ 610-X-4-.07(1)(c) and 610-X-3-.02(10)(e) on the grounds that his experience as a registered respiratory therapist; his experience as a registered nurse working in the intensive care unit, medical step-down unit, general medical-surgical unit, and emergency department; and his continuing education have provided him with sufficient clinical experience for licensure as a RN in Alabama.
4. In support of his petition, Eberthart submitted a resumé describing his experience both as an RN and a RRT, his educational background, and a listing of "professional/awards"; a detailed letter describing his clinical experience as a RN in Georgia; and a summary of Excelsior

College's Clinical Performance in Nursing Examination<sup>1</sup>. Eberhart described his full-time unit as a general medical surgical intensive care unit and medical step down unit. Eberhart indicated he is also required to "float" to the emergency department during times in which his unit has a low census. Most of Eberhart's RN experience relates to adult health. Regarding maternal/infant experience, Eberhart noted that in his full-time unit, he has provided care to ante-partum and post-partum women experiencing PIH and HELLP syndrome and those with amniotic fluid embolism, and that his ER experience included mothers in active labor. Regarding pediatric experience, Eberhart indicated that his ER experience included caring for pediatric patients, including infants with febrile seizures, asthmatic children, teenagers who have attempted suicide, and toddlers with skin burns. Eberhart provided a continuing education certificate indicating his completion of a two hour course on Preterm and Newborn Developmental Assessment Care Workshop (PANDA). Regarding psychiatric nursing, Eberhart indicated that his RN experience included ICU patients with attempted suicide, drug overdoses, anxiety associated with COPD, ICU psychosis, and substance abuse. In the ER, Eberhart indicated he has provided nursing care to patients with substance abuse, manipulative behavior, suicide attempts, bipolar disorder, schizophrenia, and dementia and Alzheimer's.

### CONCLUSIONS OF LAW

1. Eberhart is substantially affected by the rules at issue; thus, the Board has jurisdiction to consider the petition for declaratory ruling pursuant to Code of Alabama (1975) § 41-22-11 and Alabama Board of Nursing Administrative Code § 610-X-1-.09.
2. Nursing education programs approved by the Alabama Board of Nursing are required to "provide theoretical and clinical experiences specific to the expected scope of practice of graduates from each type of entry level nursing education program." Alabama Board of Nursing Administrative Code § 610-X-3-.02(10)(d). Programs must provide "[t]heory and clinical learning experiences in the areas of adult, maternal, child, and psychiatric/mental health nursing that includes any form of simulation, laboratory time and direct patient care." Alabama Board of Nursing Administrative Code § 610-X-3-.02(10)(e)(v). Board rules further provide that "nursing programs that offer only simulations or clinical testing do not meet the requirements for providing clinical learning experiences for nursing students." Alabama Board of Nursing Administrative Code § 610-X-3-.02(13).
3. To be eligible for licensure as a registered nurse in Alabama, applicants must have "graduated or successfully completed all requirements for graduation from an approved registered nursing program in Alabama, or an approved registered nursing program located in another jurisdiction or territory that substantially meets the same educational criteria as Alabama programs. Licensure by equivalency does not meet the requirement." Alabama Board of Nursing Administrative Code § 610-X-4-.02(1)(c). See also Code of Alabama (1975) § 34-21-

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<sup>1</sup> The CPNE summary provided shows that it is the version "Effective October 2010," meaning that this version would not have been in effect at the time that Eberhart took the CPNE. It is unknown how, if at all, the version in effect when Eberhart took the exam might be different than the 2010 version.

21. Endorsement applicants must “[s]ubmit official evidence of completion of a nursing education program that included theory and clinical experience appropriate to the type program. If the nursing education program did not include clinical experience, the applicant’s continuing education and work experience in nursing may be considered at the discretion of the Board.” Alabama Board of Nursing Administrative Code § 610-X-4-.07(1)(c).

4. Eberhart has not submitted evidence that he has graduated from a registered nursing program that substantially meets the same educational criteria as Alabama programs. Specifically, Eberhart has not provided evidence that his nursing education program included clinical learning experiences in the areas of adult, maternal, child, and psychiatric/mental health nursing. The clinical testing that Eberhart underwent as a part of his registered nursing education program does not meet Board requirements for clinical learning experiences for nursing students.

5. Although Eberhart’s nursing education program did not include clinical experience, the Board, at its discretion, may consider Eberhart’s continuing education and work experience in nursing. Eberhart has demonstrated sufficient clinical experience in adult nursing, but has failed to demonstrate sufficient clinical experience in maternal, child, and psychiatric/mental health nursing.

#### **RULING**

Eberhart’s Petition for Declaratory Ruling is DENIED. Should Eberhart submit sufficient evidence of clinical education from an approved school of nursing in maternal, child, and psychiatric/mental health nursing, his application will be considered.

DONE and ORDERED this the \_\_15th\_\_ day of September, 2011.

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N. GENELL LEE, RN, MSN, JD  
EXECUTIVE OFFICER