

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF NAVAJO TECHNICAL
UNIVERSITY NURSING ASSISTANT
NURSING PROGRAM NO. 1090
ISSUED TO:
Navajo Technical University
¼ mile E. Hwy 191 Rt. 7
Chinle, AZ 86503

RESPONDENT

**CONSENT AGREEMENT
AND**

ORDER NO. 190103NA1090

CONSENT AGREEMENT

A complaint charging Navajo Technical University, (“Respondent”) with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing (“Board”). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07(F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board-issued program approval for a nursing assistant program, operating in Chinle, Arizona, receiving its original approval in 2014. Respondent’s last program approval was on 10/5/2018.

2. On 9/24/2019, Respondent entered into a consent agreement Order No. #190103NA1090 for 18 months standard probation (attached and incorporated herein) for failing to meet the 2018 minimum requirements for first time student pass rate on the skills and the

written certifying examinations, as required in R4-19-802(E). Respondent's annual pass rate for the skills exam in 2018 was 34% and the written was 56%. The Arizona State average for the 2018 calendar year was 87% for written 80% for the manual skills exam.

3. Respondent failed to adequately prepare students to pass the written and skills exam for the 2019 annual pass rates. Navajo Technical University Nursing Assistant (NA) programs first-time passing rate on the written and skills certifying examination, for calendar year 2019, is below the minimum requirement of 67% (written) 62% (skills) as required in R4-19-801(E). Specifically, according to D&S Diversified Technologies, the approved test vendor, Respondents annual pass rate for the written exam in 2019 was 56% and the annual rate of the skills exam in 2019 was 75%. Respondent failed to provide adequate instruction for successful students completion of the program and becoming a nursing assistant as required in R4-19-805 (B) (1,2,12).

4. This is the third year in a row of low pass rates for Respondent. Respondent's annual pass rate for the skills exam in 2017 was 35% and the written was 38% for 27 students. The Arizona State average for the 2017 calendar year was 86% for written 81% for the manual skills exam. The Arizona State average for the 2018 calendar year was 87% for written 80% for the manual skills exam. Programs falling below the standard are those with less than 67% on the written exam and 60% on skills. This is the third year in a row that Respondent failed to provide adequate instruction for successful students completion of the program and becoming a nursing assistant.

5. Respondent was more than 7 days late on two quarterly reports, report due on 10/31/2020 was received on 11/22/2020 and report due on 1/31/2020 was received on 4/9/2020.

Respondent failed to comply with its consent agreement, as required by probation term number 2, page 8, of the Order #190103NA1090 stating that within 7 days of each assigned quarterly reporting due date, Respondent shall provide the Board accurate information and complete quarterly reports.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663 (D) as defined in § 32-1601 (26) “Unprofessional conduct” includes the following whether occurring in this state or elsewhere: (d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public; (i) Failing to comply with a stipulated agreement, consent agreement or board order; (j) Violating a rule that is adopted by the Board pursuant to this chapter; and Arizona Administrative Code Rule 4-19-801. Common Standards for Certified Nursing Assistant (CNA) and Certified Medication Assistant (CMA) Training Programs: E. Certifying Exam Passing Standard: A training program and each site of a consolidated program under R4-19-801(E) shall attain, at a minimum, an annual first-time passing rate on the manual skill and written certifying examinations that is equal to the Arizona average pass rate for all candidates on each examination minus 20 percentage points. The Board may waive this requirement for programs with less than five students taking the exam during the year. The Board shall issue a notice of deficiency under A.A.C. R4-19-805 to any program with five or more students taking the exam that fails to achieve the minimum passing

standard in any calendar year. R4-19-805. Deficiencies and Rescission of Program Approval, Unprofessional Program Conduct, Voluntary Termination, Disciplinary Action, and Reinstatement B. Unprofessional program conduct A notice of deficiency or a disciplinary action including denial of approval or rescission of approval may be issued against a training program for any of the following acts of unprofessional conduct: 1. Failing to maintain minimum standards of acceptable and prevailing educational practice; 2. Any violation of this Article; 12. Engaging in any other conduct that gives the Board reasonable cause to believe the program's conduct may be a threat to the safety or welfare of students, faculty, patients or the public.

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke, suspend or take other disciplinary action against Respondent's program approval in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to this matter. Respondent further waives any and all claims or causes of action, whether known or unknown, that Respondent may have against the State of Arizona, the Board, its members, officers, employees and/or agents arising out of this matter.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the Board finds that the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by Respondent, the Agreement cannot be withdrawn without the Board's approval or by stipulation between Respondent and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

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Arleana Benallie

Approved Respondent Representative
Arleana Benallie, Administrator



ARIZONA STATE BOARD OF NURSING

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Dated: 9/2/2020

ORDER

In view of the above Findings of Fact, Conclusions of Law and the consent of Respondent, the Board hereby issues the following Order:

A. Respondent's consent to the terms and conditions of the Order and waiver of public hearing is accepted. This Order supersedes Order No. #190103NA1090.

B. Respondent's approval is hereby **suspended for a minimum period of 24 months**; however, the **suspension is stayed** for as long as Respondent remains in compliance with this Order. During the stay of suspension, Respondent's program is placed on probation for at minimum **24** months with terms and conditions. During these minimum 24 months probation, the program must have enrolled students and conduct regular program operations, including didactic and clinical sessions, for a minimum of 12 months.

C. If Respondent is non-compliant with any of the terms of the Order during the 24 month stayed suspension period, the stay of the suspension shall be lifted and Respondent's approval shall be automatically suspended pending further possible discipline. The Board or its designee, in its sole discretion, shall determine noncompliance with the stayed portion of the Order. Respondent waives any and all rights to any further review, hearing, rehearing or judicial review of any suspension imposed pursuant to this paragraph.

D. While this Order is in effect and/or Respondent's approval is subject to discipline, up to and including revocation or voluntary surrender, Respondent is not eligible to renew any other expired approval previously held by Respondent without prior review and approval by the Board.

E. If Respondent is noncompliant with any of the terms of the Order during the minimum 24 month stayed suspension, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's program approval.

F. This Order becomes effective upon the Board and Respondent's acceptance of the Order. The effective date of this Order is the date the Consent Agreement is signed by Respondent and accepted by the Board or its designee. If Order is signed on different dates, the later date is the effective date.

G. At any time Respondent is required by terms of the Order to provide a copy of the Order to another individual or facility the Respondent must provide all pages of the Order.

H. The probation is subject to the following terms and conditions:

TERMS OF PROBATION

1. Notification of Public

Within seven days of the effective date of this Order, the Board shall note the probationary status of the program on the list of approved programs with the following notation: "VOLUNTARY CONSENT FOR PROBATION." Additionally the Board shall provide public access to this order through its website.

2. Quarterly Reports

Within 7 days of each assigned quarterly reporting due date, Respondent shall provide the Board with accurate and complete quarterly reports containing the following:

- a. Standardized tests, and
- b. Graduation, and
- c. Curriculum changes, and

- d. Personnel changes, and
- e. Admissions, and attrition, and
- f. Grievances and Complaints - Any written or verbal complaints or concerns, formal or informal, including comments on evaluations, regarding the nursing program, including advertising/recruiting, made by students, prospective students, or members of the public, brought to the attention of faculty and/or the program coordinator, and their resolution, and
- g. Results of confidential and anonymous student evaluations of nursing assistant courses, instructors, clinical experience and the overall program.
- h. Results of each cohort testing with D&S Diversified (Headmaster)

The first report is due on the first assigned quarterly report due date after the effective date of the order.

3. Outside Evaluation—Within 10 days of the effective date of this Order, Respondent shall provide the name of a consultant for approval by the Board to provide a comprehensive evaluation of the entire nursing assistant program, including, but not limited to, curriculum, didactic and clinical instruction, and program policies (adequacy and implementation/compliance), and provide a written evaluation to the Board with any recommendations for remediation. Respondent shall cause the evaluator to complete the evaluation and provide an evaluation report to the Board **within 90 days of the effective date of this order**. Respondent must comply with the evaluator's recommendations, and the Board reserves the right to amend the terms of the probation based on the evaluator's report and recommendations.

4. Re-Evaluation: Within 12 months after the original evaluation is completed, Respondent shall provide the name of an evaluator to the Board for approval to provide a re-evaluation of the program to assess implementation of any remediation recommendations

from the original evaluation, and current program status. Respondent shall cause the evaluator to complete and provide the re-evaluation report to the Board within 15 months of the original evaluation.

5. During the period of probation, and consistent with A.A.C. Rule 4-19-801(B)((8), Board staff shall, at its sole discretion perform site visits to ensure compliance with this Order and Nurse Practice Act requirements.

6. Interview with the Board or Its Designee

Respondent's representative shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

7. Renewal of Approval

In the event Respondent's nursing program approval is expired or is scheduled to expire while this Order is in effect, Respondent shall apply for renewal of the approval and otherwise maintain approval for a nursing program in Arizona.

8. Obey All Laws

Respondent shall obey all laws/rules governing nursing education in this state and obey all federal, state and local criminal laws. Respondent shall report to the Board, within 10 days, any violation or potential violation of the Nurse Practice Act, Board of Nursing Rules or any federal, state or criminal laws.

9. Costs

Respondent shall bear all costs of complying with this Order.

10. Violation of Probation

If, during the stayed suspension portion of the Order, Respondent is noncompliant with the terms of the Order in any way, the stay of suspension shall be lifted and Respondent's approval shall be automatically suspended. If, during the standard probation portion of the Order, Respondent is noncompliant with the terms of the Order in any respect, the Board may revoke probation and take further disciplinary action for noncompliance with this agreement after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

11. Voluntary Surrender of Approval

Respondent may, at any time this Order is in effect, voluntarily request surrender of their program approval.

12. Completion of Order

Upon successful completion of the terms of the order, Respondent may request formal review by the Board, and after formal review by the Board, Respondent's approval may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

ARIZONA STATE BOARD OF NURSING



Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Dated: 9/2/2020


JR/CG/KM:ll

Mailed this 30th day of July 2020, via adobe sign to:

Arlena Benallie, Navajo Technical University: abenallie@navajotech.edu

Fully executed copy mailed this 16th day of September, via adobe sign to:
Arlena Benallie, Navajo Technical University: abenallie@navajotech.edu

Signed in the Board Office on 9/16/2020.

By: 
[Lyn Ledbetter \(Sep 16, 2020 10:39 PDT\)](#)
Administrative Assistant