

ARIZONA STATE BOARD OF NURSING
1740 West Adams Street, Suite 2000
Phoenix AZ 85007
602-771-7800

IN THE MATTER OF NURSING
PROGRAM APPROVAL for
ACADEMIC TRAINING AZ NURSING
ASSISTANT PROGRAM NO. 9208,

RESPONDENT

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**
NO. 19A-180604NA9208-NUR

A hearing was held before Tammy L. Eigenheer, Administrative Law Judge (“ALJ”), at 1740 West Adams Street, Lower Level, Phoenix Arizona, on July 17, 2019. Elizabeth A. Campbell, Assistant Attorney General, appeared on behalf of the State. Academic Training AZ Nursing Assistant Program No. 9208 (“Respondent”) was not present and was not represented by counsel.

On August 26, 2019, the ALJ issued Findings of Fact, Conclusions of Law and Recommendations. On September 17, 2019, the Arizona State Board of Nursing met to consider the ALJ’s recommendations. Based upon the ALJ’s recommendations and the administrative record in this matter, the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Arizona State Board of Nursing (Board) has the authority to regulate and control the practice of nursing in the State of Arizona, pursuant to Sections 32-1606, 1663, and 1664 of the Arizona Revised Statutes. The Board approves nursing assistant training programs and can impose discipline against all regulated parties. A.R.S. § 32-1606(B)(1), (2), and (10). The Board has the authority to impose disciplinary sanctions against such programs for violations of the Nurse Practice Act, A.R.S. §§ 32-1601-1669 and A.A.C. R4-19-101 to -815.

1 2. Academic Training AZ Nursing Assistant Program (Respondent) held Board-issued
2 Program Approval Number 9208 in the state of Arizona. Respondent's approval expired on July 30,
3 2018.¹
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5 3. On or about September 19, 2018, Simon Cardenas, as the approved Respondent
6 Representative, signed Consent Agreement and Order No. 180604NA9208 (2018 Consent Agreement)
7 based on findings of deficiencies in its nursing assistant program.

8 4. The 2018 Consent Agreement required that Respondent provide the Board with
9 quarterly reports.
10

11 5. Respondent did not provide any quarterly reports due under the 2018 Consent
12 Agreement.

13 6. The 2018 Consent Agreement required that Respondent engage an outside consultant
14 within 30 days (by October 19, 2018) to evaluate its nursing program curriculum and provide a report
15 to the Board within 90 days (by December 19, 2018).
16

17 7. As of the date of the hearing, the Board had not received the required evaluation report.

18 8. The Board referred the matter to the Office of Administrative Hearings (the OAH), an
19 independent agency, for an evidentiary hearing to convene on July 17, 2019. The Complaint and Notice
20 of Hearing was sent by first class and certified mail to Respondent, care of Michelle Dils, Program
21 Administrator. At the time the Complaint and Notice of Hearing was issued, Ms. Dils was
22 Respondent's Program Administrator on record with the Board.
23

24 9. Ms. Dils appeared at the hearing in an effort to represent Respondent. During a
25 discussion on the matter, Ms. Dils stated that, based on an agreement she had with Mr. Cardenas, she
26

27 ¹ Respondent submitted a renewal application on July 26, 2018, that was deficient and had not submitted
28 the required documents to correct the deficiencies, which were due March 19, 2019. The Board retains
29 jurisdiction over the expired approval during the pendency of the investigation and disciplinary action,
pursuant to A.R.S. § 32-1664(C), which provides that the Board retains jurisdiction over a regulated party
whose license or certificate expired not more than five years before the Board initiates the investigation.

1 filed Articles of Amendment with the Arizona Corporation Commission removing him as a member
2 and adding her as a member. Ms. Dils acknowledged that Mr. Cardenas was the owner of Respondent
3 and did not authorize her to make the change with the Arizona Corporation Commission and that she
4 was not the legal owner of Respondent. Because Ms. Dils was not an owner, Ms. Dils was not allowed
5 to represent Respondent during the hearing. Ms. Dils was, however, the Program Administrator of
6 record with the Board. As such, the Complaint and Notice of Hearing was sent to Respondent in care of
7 her as the Program Administrator.
8

9
10 10. At the hearing, Cindy George, Education Program Administrator for the Board, testified
11 as to the failure to Respondent to comply with the 2018 Consent Agreement.

12 **CONCLUSIONS OF LAW**

13 1. The Complaint and Notice of Hearing that the Board mailed to Respondent at its address
14 of record was reasonable, and Respondent is deemed to have received notice of the hearing. *See* A.R.S.
15 § 41-1092.04; A.R.S. § 41-1061(A).
16

17 2. This matter lies within the Board's jurisdiction under A.R.S. § 32-1606(B)(10).

18 3. The Board bears the burden of proof and must establish cause to penalize Respondent's
19 nursing program approval by a preponderance of the evidence. *B See* A.R.S. § 41-1092.07(G)(2);
20 A.A.C. R2-19-119(A) and (B)(1); *see also Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837
21 (1952).
22

23 4. "A preponderance of the evidence is such proof as convinces the trier of fact that the
24 contention is more probably true than not." MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE §
25 5 (1960). A preponderance of the evidence is "evidence which is of greater weight or more convincing
26 than evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact
27 sought to be proved is more probable than not." BLACK'S LAW DICTIONARY 1120 (8th ed. 2004).
28
29

1 5. If a regulated party is found to have committed an act of unprofessional conduct or to
2 have violated a Board statute or rule, the Board may take disciplinary action. A.R.S. § 32-1664(O).

3 6. The Board established by a preponderance of the evidence that Respondent failed to
4 comply with the 2018 Consent Agreement as alleged in the Complaint and Notice of Hearing. Such a
5 failure to comply constitutes unprofessional conduct in violation of A.R.S § 32-1601(26)(d), (h), (i),
6 and (j)² and A.A.C. R4-19-805(B)(2) (8), and (12).³

7 7. In light of the risk of potential harm to patients as a result of Respondent’s actions and
8 violations of the Nurse Practice Act, the Board established cause to impose a disciplinary sanction
9 against Respondent’s nursing program approval under A.R.S. §32-1663(D)⁴ and A.R.S. § 32-1664(O).⁵
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12
13 **ORDER**

14 In view of the Findings of Fact and Conclusions of Law, the Board issues the following Order:

15 **Pursuant to A.R.S. § 32-1664(O), the Board REVOKES license number 9208 issued to**
16 **ACADEMIC TRAINING AZ NURSING ASSISTANT PROGRAM.**

17 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

18 **Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing**
19 **or review within 30 days after service of this decision with the Arizona State Board of Nursing.**
20 **Service is complete five days after the date that this decision is mailed. A.R.S. § 41-1092.09(C).**

21
22
23 ² A.R.S. § 32-1601(26)(d), (h), (i), and (j) defined “unprofessional conduct” to include, respectively, “[a]ny
24 conduct or practice that is or might be harmful or dangerous to the health of a patient or the public,”
25 “[c]ommitting an act that deceives, defrauds or harms the public,” “[f]ailing to comply with a stipulated
26 agreement, consent agreement or board order,” and “[v]iolating this chapter or a rule that is adopted by
27 the board pursuant to this chapter.”

28 ³ A.A.C. R4-19-805(B)(2), (8), and (12) defined “unprofessional conduct” to include, respectively, “[a]ny
29 violation of this Article,” “[f]ailing to comply with Board requirements within designated timeframes,” and
“[e]ngaging 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.”

⁴ A.R.S. § 32-1663(D) provides that if the Board determines a licensee has committed an act of
unprofessional conduct, the Board may revoke or suspend the license, impose a civil penalty, censure
the license, place the licensee on probation, or accept the voluntary surrender of the license.

⁵ A.R.S. § 32-1664(O) provides that if the Board finds that the licensee has committed an act of
unprofessional conduct, the Board may revoke or suspend the license.

1 **The motion for rehearing or review shall be made to the attention of Hearing Department,**
2 **Arizona State Board of Nursing, 1740 West Adams Street, Suite 2000, Phoenix AZ 85007, and**
3 **must set forth legally sufficient reasons for granting a rehearing. A.A.C. R4-19-608.**
4

5 **For answers to questions regarding a rehearing, contact the Hearing Department at (602)**
6 **771-7844. Pursuant to A.R.S. § 41-1092.09(B), if Respondent fails to file a motion for rehearing**
7 **or review within 30 days after service of this decision, Respondent shall be prohibited from**
8 **seeking judicial review of this decision.**
9

10 **This decision is effective upon expiration of the time for filing a request for rehearing or**
11 **review, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.**

12 **Respondent may apply for reinstatement of the said license pursuant to A.A.C. R4-19-805**
13 **after a period of two years.**
14

15 **DATED this 17th day of September, 2019.**

16 **SEAL**

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

1 COPIES mailed this 18th day of September, 2019, by First Class Mail and
2 Certified Mail No. 7018 18.0 0000 8472 6269 to:

3 Academic Training AZ Nursing Assistant Program
4 C/O Michelle Dils - Program Administrator
5 

6 COPIES of the foregoing mailed this 18th day of September, 2019, to:

7 Case Management
8 Office of Administrative Hearings
9 1740 West Adams Street, Lower Level
10 Phoenix AZ 85007

11 Elizabeth Campbell
12 Assistant Attorney General
13 Arizona Attorney General's Office
14 2005 North Central Avenue
15 Phoenix, Arizona 85004

16 By: T. Smith
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