

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF REGISTERED
NURSING PROGRAM NO. US96400400
ISSUED TO:
BROWN MACKIE COLLEGE
REGISTERED NURSING PROGRAM
13430 NORTH BLACK CANYON HIGHWAY
PHOENIX, AZ. 85029
(RESPONDENT)

**CONSENT AGREEMENT
AND
ORDER NO. 150702RN96400400**

CONSENT AGREEMENT

A complaint charging Brown Mackie College Registered Nursing Program, Phoenix, Arizona ("Respondent"), with violations 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 provisional program approval for a registered nursing program at Brown-Mackie College on 13430 North Black Canyon Highway Phoenix, AZ., which was originally issued to Respondent in July, 2010.
2. The Board issued a Notice of Deficiency to Respondent (Order number 1407001RN96404) on November 21, 2014. The facts and legal violations as stated in the Notice of Deficiency, attached, are hereby incorporated by reference

and included in this Consent Agreement.

3. The Board asserts that Respondent failed to provide evidence of resolution of a previous deficiency related to R4-19-201 (D), administrative control of the nursing program. Respondent disagrees, and asserts that the nursing program administrator/faculty do have control of the program.
4. The systematic evaluation plan provided by Respondent on July 1, 2015, does not incorporate continuous improvement based on evaluative data and does not include actual outcomes and actions taken as required in R4-19-201(I).
5. Respondent failed to enforce its own policies and procedures for student input as outlined in Nursing Student Handbook – 2015 from 1/1/2015 to 6/30/2015, as evidenced by failure of the Nursing Program Administrator and faculty to conduct monthly meetings with Student Leadership Council (SLC). The above conduct is a violation of R4-19-201 (G) and R4-19-205 (D).
6. Respondent failed to implement and evaluate written policies for faculty orientation and continuous learning. According to Respondent's Nursing Program Faculty Handbook (revised 6/15/15) nursing faculty will receive a College orientation and a supplemental nursing department orientation plan. On 7/6/2015 Board staff conducted a site visit of Respondent and during interviews with Instructors A, B, and C, all reported no orientation or mentoring plan as described in Respondent's Faculty Handbook, a violation of R4-19-204 (H).
7. Between 9/2014 and 7/2015, Respondent failed to develop and implement didactic and clinical nursing faculty workload policies, a violation of R4-19-204 (A)

8. Between 9/2014 and 7/2015, Respondent's nursing program administrator and faculty failed to evaluate and revise the program of learning, including the curriculum and learning outcomes of the program, a violation of R4-19-204 (G) (1).
9. The Board asserts that, between 9/2014 and 7/2015, Respondent's nursing program administrator and faculty failed to evaluate and revise standards for the admission, progression and graduation of students, a violation of R4-19-204 (G) (2). Respondent asserts that these standards were revised, and has submitted documentation to the Board to support this assertion.
10. Based upon information currently available, Respondent anticipates that, for the 2015 calendar year, less than 80% of its graduates taking the NCLEX-RN will pass the exam for the first time within 12 months of graduation; and less than 45% of its students will graduate within 100% of the prescribed period. These are violations of R4-19-206(G) (NCLEX pass rate) and (H) (graduation rate).

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.

In addition to those violations identified within the Findings of Fact, the Board has determined that the conduct and circumstances described in the Findings of Fact constitute unprofessional conduct and grounds to take disciplinary action pursuant to A.R.S. 32-1663 and 32-1664, and pursuant to the following statutes and rules:

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663 (D) as defined in § 32-1601(22)(d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public, "(g) Willfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter, (h) Committing an act that deceives, defrauds or harms the public, and (j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter."

Rule 4-19-201 (D), (G) and (I) require the following:

D. The parent institution shall center the administrative control of the nursing program in the nursing program administrator and shall provide the support and resources necessary to meet the requirements of R4-19-203 and R4-19-204

G. A nursing program shall implement written policies and procedures that provide a mechanism for student input into the development of academic policies and procedures and allow students to anonymously evaluate faculty, nursing courses, clinical experiences, resources and the overall program.

I. A nursing program shall develop and implement a written plan for the systematic evaluation of the total program that is based on program and student learning outcomes and that incorporates continuous improvement based on the evaluative data. The plan shall include measurable outcome criteria, logical methodology, frequency of evaluation, assignment of responsibility, actual outcomes and actions taken. The following areas shall be evaluated:

1. Internal structure of the program, its relationship to the parent institution, and compatibility of program policies and procedures with those of the parent institution;
2. Mission and goals;
3. Curriculum;
4. Education facilities, resources, and student support services;
5. Clinical resources;
6. Student achievement of program educational outcomes;
7. Graduation and attrition for each admission cohort including at a minimum:
 - a. Number and percent of students who left the program;
 - b. Number and percent of students who are out of sequence in the program; and
 - c. Number and percent of students who graduated within 100%, 150% or greater than 150% of time allotted in the curriculum plan.
8. Graduate performance on the licensing examination;
9. Faculty performance; and
10. Protection of patient safety including but not limited to:
 - a. Student and faculty policies regarding supervision of students, practicing within scope and student safe practice;
 - b. The integration of safety concepts within the curriculum;
 - c. The application of safety concepts in the clinical setting; and
 - d. Policies made under R4-19-203(C)(6).

Rule 4-19-202(A) (3) (e) requires the following:

A. The parent institution of a nursing program shall consider the size of the program including number of program faculty and number of program students and shall provide and maintain resources, services and facilities for the effective development and implementation of the program that are at a minimum:

3. Include the following:

e. Classrooms, laboratories, and conference rooms of the size and type needed with furnishings and equipment consistent with the educational purposes for which the facilities are used

Rule 4-19-204 (A), (G) and (H) require the following:

A. A nursing program shall implement written personnel policies for didactic and clinical nursing faculty members including workload policies that at minimum conform to those for other faculty members of the parent institution and that are in accordance with accepted nursing educational standards or provide a written explanation of any differences not related to the requirements of this Article.

G. Under the leadership of the nursing program administrator, nursing program faculty members shall:

1. Develop, implement, evaluate, and revise the program of learning including the curriculum and learning outcomes of the program;
2. Develop, implement, evaluate and revise standards for the admission, progression, and graduation of students;

H. Together with the nursing program administrator, develop, implement and evaluate written policies for faculty orientation, continuous learning and evaluation

Rule 4-19-205 (D) requires the following:

D. A nursing program and parent institution shall have and enforce written policies that are readily available to students in either the college catalogue or nursing student handbook that address student rights, responsibilities, grievances, health, and safety.

Rule 4-19-206 (G) and (H) require the following:

G. A nursing program shall maintain at least a 80% NCLEX® passing rate for graduates taking the NCLEX-PN® or NCLEX-RN® for the first time within 12 months of graduation. The Board shall issue a notice of deficiency to any program that has a NCLEX® passing rate less than 80% for two consecutive calendar years or less than 75% for one calendar year.

H. At least 45% of students enrolled in the first nursing clinical course shall graduate within 100% of the prescribed period. "Prescribed period" means the time required to complete all courses and to graduate on time according to the nursing program's curriculum plan excluding the time to complete program pre-requisite or pre-clinical courses.

Rule 4-19-211 (1), (2) and (4) require the following:

A disciplinary action, denial of approval, or notice of deficiency may be issued against a nursing or refresher program for any of the following acts of unprofessional conduct in a nursing program:

1. Failure to maintain minimum standards of acceptable and prevailing educational or nursing practice;
2. Deficiencies in compliance with the provisions of this Article;
4. Non-compliance with the program's or parent institution's mission or goals, program design, objectives, or policies;

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 in paragraphs 4 and 8 only, and does not contest the other Findings of Fact and Conclusions of Law. Respondent understands that the Board finds the listed Findings of Fact and Conclusions of Law are violations of the Nurse Practice Act and may be used to enhance discipline in any future disciplinary proceedings.

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, offices, 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 admissions in 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.

Lois Callaway
Respondent (Authorized Representative)

Dated: 11/6/15

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: 11-20-15

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.

B. Respondent's program approval is placed on probation for 18 months.

Respondent may apply for early termination of probation after submitting to the Board its 2016 attrition/graduation data that demonstrate compliance with R4-19-206(H), and NCLEX-RN pass

rates for 2016 that meet the requirements of R4-19-206 (G), and if Respondent is in compliance with the other requirements of the instant Order.

C. This Order becomes effective upon the Board's and Respondent's acceptance of the Consent Agreement. 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. Probation begins on the effective date of this Order.

D. If Respondent is noncompliant with any of the terms of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline of Respondent's program approval.

F. Probation is subject to the following terms and conditions:

TERMS OF PROBATION

1. **Public Notification**

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 PROBATION."

2. **Quarterly Reports**

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

- a. All nursing department meeting minutes, including meetings with faculty, staff and students present.
- b. All program review committee meeting minute's
- c. All nursing program personnel/staff changes;

- d. Admissions to any part of Respondent's nursing program
- e. Program attrition and on-time graduation rates for each cohort
- f. All student or faculty grievances, complaints or concerns related to the nursing program including any written, or formal complaints or concerns, concerns written as part of student evaluations of any aspect of the program, or any other issues brought to the attention of the nursing program administrator and their resolution.
- g. Curriculum changes
- h. Results of confidential and anonymous student evaluations of nursing courses, instructors, and the overall program, including student comments
 - i. Nursing faculty evaluations
 - j. Policy revisions
 - k. Systematic evaluation results and actions taken 12 months following the effective date of this Order.
- l. The first report is due on the first assigned quarterly report due date after the effective date of the Order.

3. Policy Revision

Within 60 days of the effective date of this Order, Respondent shall promulgate and enforce the policies necessary to give the faculty, along with the nursing program administrator, the authority and responsibility to determine admission, progression and graduation requirements that are legally sound and supported by evidence such as formal research, the program's own evidence and expert opinion.

4. Workload Policy

Respondent shall develop and implement a written personnel workload policy for Respondent's faculty that is in accordance with accepted nursing and educational standards.

5. Renewal of Approval

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

6. Obey All Laws

Respondent shall obey all laws/rules governing nursing education in this state and obey all federal, state and local criminal laws.

7. Costs

Respondent shall bear all costs of complying with this Order.

8. Violation of Probation

If Respondent is noncompliant with this Order in any respect, the Board may take further disciplinary action for noncompliance with this Order 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.

9. Early Termination

Respondent is eligible in for early termination of probation upon meeting all terms and conditions of probation, including term B of the Order (see above).

10. Voluntary Surrender of Approval

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

ARIZONA STATE BOARD OF NURSING

SEAL

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

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

Dated: 11-20-15

JRU:

COPY mailed this 23rd day of November, 2015 by First Class Mail. to:

Ronda Collazo, RN, PhD
Nursing Program Director
Brown Mackie College - Phoenix
13430 N. Black Canyon Hwy
Phoenix, Arizona 85029

Kory Langhofer
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7011 3500 0001 5219 4375
Signed in the Board Office this 29th day of November, 2015. *7011 3500 0001 5219 4450*

By: *Lyn Ledbetter*
Legal Secretary