

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF NURSING
ASSISTANT PROGRAM NO. 8910
ISSUED TO:

**MEDSTAR ACADEMY NURSING
ASSISTANT,
PROGRAM**

**CONSENT AGREEMENT
AND
ORDER NO.
190903NA8910**

CONSENT AGREEMENT

The Arizona State Board of Nursing (“Board”) received allegations that Medstar Academy Nursing Assistant Program (“Respondent Program”) violated the Nurse Practice Act. 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 Program holds Board issued approval for a nursing assistant program.
2. The Administrator at Respondent Program self-reported to the Board on September 3, 2019, that one of its students, who was also working for the program in student services, had falsified her hours with the State nursing assistant testing vendor (D&S) on April 30, 2019, to state that she had completed all her hours and was eligible to take the State nursing assistant examination. The Board also received a letter from the Director of Contracts, Communications & Customer Relations at D&S, on September 3, 2019, regarding the same allegations. Based upon this information, the Board conducted an investigation.

3. On September 18, 2019, after student T.S. was told that her application for Board nursing assistant certification was being withheld due to Board concerns regarding whether she had, in fact, completed the nursing assistant program, student T.S. submitted a complaint to the Board regarding Respondent Program, alleging that: students were only out on the floor at clinical for 2-hours a day, clinical instructor sat in the break room most of the day, students never made up time that was missed, Respondent Program went for a period of time without a Coordinator, student services pulled files so that new Coordinator could not see what was missing, students were sent to clinical without results of fingerprint clearance card results as required by policy, students were not entered into D&S within the 14 days of the start of the class (as required), student in the Program was selling Fentanyl to other students at school and clinical site, there was an inappropriate relationship between a nursing assistant student and student services employee, for which the Program Administrator inappropriately intervened by contacting the student, Administrator was paying staff under the table in cash, and Arizona at Work students were charged more than other students. Of these allegations, the Board investigated those that rose to the level of a possible Nurse Practice Act violation.

4. On or about April 30, 2019, student T.S., who was also an office employee at Respondent Program in Peoria, Arizona, entered fraudulent nursing assistant course completion hours for herself into the D&S Diversified System (State testing vendor) database, thereby enabling student T.S. to test for the State nursing assistant test without completing the required nursing assistant program hours. Student T.S. was required to attend 40 hours of clinic but only completed 8 hours of clinical on April 18, 2019, leaving her short 32 hours of clinical time required. Student T.S. then took the State nursing assistant test through D&S two times, on August 10, 2019 (fail) and August 26, 2019 (pass). Student T.S. applied for nursing assistant certification with the Board on August 26, 2019. Respondent Program was not aware of student T.S.'s entry

of the fraudulent hours or the fact that student T.S. had tested twice for the State exam until August 29, 2019. Upon learning of the fraudulent entry, the Program Administrator immediately self-reported to the Board, on September 3, 2019. At the time of this self-report on September 3, 2019, Respondent Program had no process/policy in place for validating completion hours being entered as correct, violating Arizona Administrative Code (“A.A.C.”) Rule 4-19-805(B)(1). The educational standard of practice is for programs to have processes and policies in place to authenticate all students’ hours to confirm students have met all requirements before students are submitted for State testing. In addition, it is a standard of practice for student files to be secured and inaccessible to prevent a student from altering their own or other students’ files.

5. Approximately between Board staff’s site visits to Respondent Program, on September 11, 2017 and November 2, 2019, Respondent Program’s faculty were not documenting each student’s performance each day, consistent with course skills and clinical objectives, which is a violation of A.A.C. R4-19-801(C)(10)(d). On November 21, 2019, during a Board staff renewal site visit the Clinical Instructor at Respondent Program admitted to Board Staff this failure to document student performance daily. On November 22, 2019, a new policy was implemented and started with the next cohort on December 3, 2019.

6. Approximately between Board staff’s September 11, 2017 site visit and the November 2, 2019 site visit to Respondent Program, Respondent Program’s faculty were including pre and post conference (instructor-student meetings) as clinical hours, a violation of R4-19-802(D)(1)(c)(ii), which meant that qualifying clinical hours were actually 7-hours per day, rather than 8-hours per day, which meant that students were 5-hours short of their required 40-hours. On November 21, 2019, during a Board staff renewal site visit, the Clinical Instructor at Respondent Program admitted this conduct to Board Staff. Per Respondent Program Coordinator, she informed the Clinical Instructor of the rule pertaining to pre and post conference not counting towards

clinical hours in February 2019, but after the conversation, no policy was implemented and she did not follow up to confirm that Respondent Program's clinical instructors had corrected their practice to maintain compliance with the rule requirements. Clinical time was changed to 0545-1500 to allow for a 15 minute instructor-student conference in addition to the daily 8 hours, starting with the next cohort on December 3, 2019.

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 and currently cited as § 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 and (j) Violating this chapter or a rule that is adopted by the board pursuant to this chapter (effective August 9, 2017), and currently cited as: A.A.C. R4-19-801 Common Standards for Certified Nursing Assistant (CNA) and Certified Medication Assistant (CMA) Training Programs (C) (10) A qualified RN instructor shall supervise any student who provides care to patients or residents by:

d. Documenting each student's performance each day, consistent with course skills and clinical objectives (effective July 1, 2017); R4-19-802 CNA Program Requirements (D) Clinical and classroom hour requirements and resources (1) A nursing assistant training program shall ensure each graduate receives a minimum of 120 hours of total instruction consisting of: c. Instructor-supervised clinical experiences for a minimum of 40 hours, consistent with the goals of the program. Clinical requirements include the following: ii. The program shall provide a minimum of 20 hours of direct resident care in a long-term care facility licensed by the Department of Health Services, except as provided in subsection iv. Direct resident care does not include orientation and

clinical pre and post conferences (effective July 1, 2017); R4-19-805 Deficiencies and Rescission of Program Approval, Unprofessional Program Conduct, Voluntary Termination, Disciplinary Action, and Reinstatement (B) (1) Failing to maintain minimum standards of acceptable and prevailing educational practice; (2) Any violation of this Article and (5) Failing to provide the classroom, laboratory or clinical teaching hours required by this Article or described in the program description (effective September 8, 2014).

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

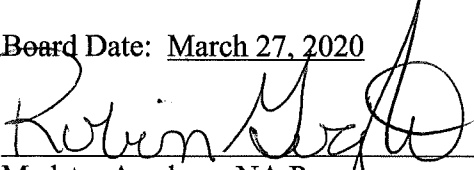
In lieu of a hearing on these issues, Respondent Program admits to issuance of the following Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to this matter. Respondent Program further waives any and all claims or causes of action, whether known or unknown, that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

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

and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by Respondent Program and accepted by the Board or its designee.

Board Date: March 27, 2020

Medstar Academy NA Program,
Respondent Program
Dated: 3-26-20

SEAL


Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director
ARIZONA STATE BOARD OF NURSING
Acceptance Date: 3/27/2020

MALLOCH/MEDSTAR ACADEMY NA PROGRAM

ORDER

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

- A. Respondent Program's consent to the terms and conditions of the Order and waiver of hearing is accepted.
- B. Respondent Program's approval is placed on probation for at minimum, 18-months, with terms and conditions.
- C. This Order becomes effective upon the Board and Respondent Program'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 Program. If the Consent Agreement is signed on different dates, the latter is the effective date. Program begins on the effective date of this Order.

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

E. At any time Respondent is required by terms of the Order to provide a copy of the Order to another individual or facility Respondent shall provide all pages of the Consent Agreement and Order, and to include the attachments/exhibits, if any.

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

TERMS OF PROBATION

1. Notification of Public

Within 7 days of the effective date of this Order, the Board shall note the probationary status of Respondent 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 Program shall provide the Board with accurate and complete quarterly reports containing the following:

- a) Attrition,
- b) Clinical documentation for each cohort,
- c) Clinical Attendance sheets with hours listed for each cohort,
- d) Grievances/complaints – Any written or verbal complaints or concerns regarding the nursing program brought to the attention of the nursing program administrator and their resolution including informal complaints and comments on evaluations,
- e) Evaluations - student, faculty, program, courses,

- f) Timely notification of any program changes that are or may be in violation of this agreement,
- g) D&S Pass Rates,
- h) Personnel changes,
- i) Evidence of Policy notification to students, faculty and staff,
- j) Evidence of Policy implementation.

3. Professional Boundary Course for Faculty

All staff employed at Respondent Program Medstar Academy must watch Professional Boundaries in Nursing, on the National Council State Boards of Nursing (NCSBN) website, within 60 days of the effective date of this Order, and submit the attendance log to the Board.

4. Nurse Practice Act Training for Faculty/Staff

Respondent Program will provide a training on the Nurse Practice Act requirements applicable to nursing assistant programs, particularly Arizona Administrative Code, Title 4, Chapter 19, Article 8 of the rules, to all employees who interact with students within 60 days of the effective date of this Order, and submit the attendance log to the Board.

5. Release of Information Forms

Respondent Program shall cause an authorized Program representative to sign all release of information forms as required by the Board or its designee and return them to the Board within 10 days of the Board's written request. Failure to provide for the release of information, as required by this paragraph constitutes noncompliance with this Order.

6. Interview with the Board or Its Designee

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

8. Obey All Laws

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

9. Costs

Respondent Program shall bear all costs of complying with this Order.

10. Violation of Probation

If Respondent Program is noncompliant with this Order in any respect, the Board or its designee may notify Respondent Program's accreditation agency, including the institutional accrediting agency, of the noncompliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Order after affording Respondent Program notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent Program 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 License

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

12. Completion of Probation

Respondent Program is eligible for early termination of probation after successfully completing 12-months of probation, upon meeting all terms and conditions of probation. Prior to termination of probation, Respondent Program shall request formal review by the Board, and at the Board's discretion, Respondent Program's approval may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

Board Date: March 27, 2020

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

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director
ARIZONA STATE BOARD OF NURSING

Acceptance Date: 3/27/2020

JR/KM:dh

COPY emailed this 26th day of March, 2020 to:

Medstar Academy Nursing Assistant Program
Robin Gogte <goro459@gmail.com>

By: Lyn Ledbetter
Administrative Assistant

Duly signed COPY emailed this 30th day of March, 2020 to:

Medstar Academy Nursing Assistant Program
Robin Gogte <goro459@gmail.com>

By: Lyn Ledbetter
Administrative Assistant