

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF MOHAVE
COMMUNITY COLLEGE - KINGMAN
NURSING ASSISTANT PROGRAM

ISSUED TO:

MOHAVE COMMUNITY COLLEGE
NURSE ASSISTANT PROGRAM
1801 DETROIT AVENUE
KINGMAM, AZ 86401

RESPONDENT

**CONSENT AGREEMENT
AND
ORDER NO.
20230701NA5403**

CONSENT AGREEMENT

The Arizona State Board of Nursing (“Board”) and Mohave Community College-Kingman (“Respondent”) seek to resolve allegations that Respondent 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 holds Board-issued program approval for a nursing assistant program, operating in Kingman, Arizona, receiving its original approval in 2003. Respondent’s current approval expires July 31, 2025

2. Board Initiated: On June 28, 2023, while Board Staff was conducting a renewal site visit, Program Administrator Kerrie Hess informed Board Staff that Mohave Community College Certified Nursing Assistant Program started a Pilot program without Board approval at a

facility in Kingman, Arizona. Hess stated that Nursing Assistant students were placed with a preceptor, who was a nursing assistant that was an employee of the facility. Hess stated that an employee from the facility was overseeing the students but she had not been approved for the CNA program as an instructor. The employee stated that she was not aware that an instructor presence was required.

Respondent did not have a qualified RN Instructor at the clinical site with nursing assistant students at the facility in Kingman, Arizona on or about January 2023 to July 2023. Violating R4-19-801 (C) (3) (9), (10) The program failed to maintain minimum standards of acceptable and prevailing educational practice when a qualified RN instructor was not present during scheduled clinical hours at the clinical facility as also stated in R4-19-802 ((D) (1).

3. On July 31, 2023, Board Staff sent Mohave Community College Certified Nursing Assistant Program a Respondent Questionnaire which also included a request for additional information related to the investigation. On August 10, 2023 and September 5, 2023, Board Staff sent subpoenas to Respondent requesting additional information related to the investigation. On October 5, 2023, Board Staff emailed Program Administrator Kerrie Hess stating that a subpoena response has not been received. On October 11, 2023, Hess replied to Board Staff's email stating that she should have all of the required information by the end of the week or the beginning of next week. As of October 24, 2023, Board staff had not received a response to the subpoena

4. Respondent's Program Administrator, Hess, stated that she implemented an (unapproved) "pilot program" on or around January 2023 to June 2023. Respondent did not apply to the Board for a pilot program and therefore had no approval from the Board when assigning nursing assistant students to a clinical site, to be assigned to a non-approved nursing

assistant preceptor without having a qualified RN instructor to supervise the students at the clinical site. A.R.S. section 32-1606 (A) (9) and AAC R4-19-214 state that nursing assistant programs may implement a pilot program if the pilot has been approved by the Board. Respondent implemented a pilot program without Board approval and did not have a qualified instructor supervising students at the clinical site of KRMC.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1644, 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 (27) “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, (j) Violating a rule that is adopted by the Board pursuant to this chapter (effective September 29, 2021);§ 32-1606- Powers and duties of the Board R4-19-206, “(A) The Board may : 9. Adopt rules to conduct pilot programs consistent with public safety for innovative applications in nursing practice, education and regulation.”and R4-19-801 (A)(11) 11. A training program shall submit written documentation and information to the Board regarding the following program changes within 30 days of instituting the change: a. For a change or addition of an instructor or coordinator, the name, RN license number, and documentation that the coordinator or instructor meets the applicable requirements of R4-19-802(B) and (C) for NA programs and R4-19-803 (B) for CMA programs; R4-19-801 (C) (3) (9), (10) C. Classroom and clinical instruction

9. A qualified RN instructor shall be present at all times and during all scheduled classroom, skills laboratory and clinical sessions. In no instance shall a nursing assistant or other unqualified

person provide any instruction, reinforcement, evaluation or independent activities in the classroom or skills laboratory. 10. A qualified RN instructor shall supervise any student who provides care to patients or residents by: a. Remaining in the clinical facility and focusing attention on student learning needs during all student clinical experiences; b. Providing the instructor's current and valid contact information to students and facility staff during the instructor's scheduled teaching periods; c. Observing each student performing tasks taught in the training program; d. Documenting each student's performance each day, consistent with course skills and clinical objectives; e. During the clinical session, engaging exclusively in activities related to the supervision of students; and f. Reviewing all student documentation.

R4-19-802 ((D) (1) R4-19-802. Nursing Assistant (NA) Program Requirements D. Clinical and classroom hour requirements and resources c. Instructor-supervised clinical experiences for a minimum of 40 hours, consistent with the goals of the program. Clinical requirements include the following: R4-19-805 (B) (1,2,7,11,12,13 (b), 14) 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; 7. Permitting unqualified persons to supervise teaching learning experiences in any portion of the program; 11. Failing to supervise students in the clinical setting in accordance with this Article or allowing more than the maximum students per clinical instructor prescribed in 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 13. Failing to: b. Respond to a subpoena issued by the Board; 14. Failing to take appropriate action to safeguard a patient's or

resident's welfare or follow policies and procedures of the program or clinical site designed to safeguard the patient or resident; R4-19-214. Pilot Programs for Innovative Approaches in Nursing Education A. Under A.R.S. § 32-1606(A)(9) a nursing education program, refresher program or a certified nursing assistant program may implement a pilot program for an innovative approach by complying with the provisions of this Section. Education programs approved to implement innovative approaches shall comply with all other applicable provisions of A.R.S. Title 32, Chapter 15 and this Chapter. B. A program applying for a pilot program shall:

1. Hold full approval in good standing; and
2. Have no discipline in the past two years.

C. The following written information shall be provided to the Board at least 90 days prior to a Board meeting to seek approval for a pilot program:

1. Identifying information including name of program, address, responsible party and contact information;
2. A brief description of the current program, including accreditation and Board approval status;
3. Identification of the regulation or regulations that the proposed innovative approach would violate without pilot program board approval;
4. Length of time for which the innovative approach is requested;
5. Description of the innovative approach, including rationale and objectives;
6. Explanation of how the proposed innovation differs from approaches in the current program;
7. Available evidence supporting the innovative approach;
8. Identification of resources that support the proposed innovative approach;
9. Expected impact the innovative approach will have on the program, including administration, students, faculty, and other program resources;
10. Plan for implementation and evaluation of the proposed innovation, including timeline;
11. Additional application information as requested by the Board

and R4-19-211 Unprofessional Conduct in a Nursing Program

1. A pattern of failure to maintain minimum standards of acceptable and prevailing educational or nursing practice, or any such

failure related to student or patient health, welfare, or safety, 2. A pattern of deficiencies in compliance with the provisions of this Article, or any such deficiency related to student or patient health, welfare, or safety, 4. A pattern of non-compliance with the program's or parent institution's mission or goals, program design, objectives, or policies, or any such deficiency related to student or patient health, welfare, or safety, 6. Student enrollments without necessary faculty, facilities, or clinical experiences to achieve program outcomes or minimal nursing competence, 7. Ongoing or repetitive employment of unqualified faculty or program administrator, 12. Any other evidence that the program's conduct may be a threat to the safety and well-being of students, faculty, patients or potential patients, 13. Violation of any other state or federal laws, rules, or regulations that may indicate a threat to the safety or well being of students, faculty, patients or potential patients.

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 the Conclusions of Law.

Respondent understands that the Board does substantiate all of the facts in this agreement, and that those findings may be used as prior discipline history in any future actions by the Board.

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.

Respondent acknowledges and agrees that the acceptance of this Consent Agreement is solely to settle this Board matter and does not preclude the Board from instituting other proceedings as may be appropriate now or in the future.

Furthermore, and notwithstanding any language in this Consent Agreement, this Consent Agreement does not preclude in any way any other state agency or officer or political subdivision of this state from instituting proceedings, investigating claims, or taking legal action as may be appropriate now or in the future relating to this matter or other matters concerning Respondent, including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent

acknowledges that, other than with respect to the Board, this Consent Agreement makes no representations, implied or otherwise, about the views or intended actions of any other state agency or officer or political subdivision of the state relating to this matter or other matters concerning Respondent.

Kerrie Hess, MSN RN
Kerrie Hess, MSN RN (Jan 17, 2024 09:20 MST)
Signature of Approved Respondent
Representative
Date: 01/17/2024



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: 01/17/2024

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 approval is hereby placed on probation for a minimum of 24 months, with terms and conditions.
- C. 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 on Respondent's nursing program.
- 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. 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.

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

G. The 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 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. Admission Report

a. Number of Admissions: Notify the Board at least 15 days before the start of each cohort with the dates the cohort starts and finishes, number of students admitted to the cohort, students names, facility name where clinical experience will take place, and faculty names who will be teaching each section: didactic, skills and clinical.

3. Graduation Report by Cohort

Respondent to provide a written report on each cohort within 30 days of graduation to include the following information:

- a. Clinical documentation for each student that includes the site where clinical was conducted
 - b. Clinical attendance sheets with dates and hours attended by each student, including instructor information
 - c. Student roster with names and contact information
 - d. Clinical instructor information with contact information
 - e. 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
 - f. Timely notification of any program changes that are or may be in violation of this agreement
 - g. Results of confidential and anonymous student evaluations of nursing courses and instructors, and the overall program.
 - h. Status of all recommendations from external consultant
3. Site Visit
- a. Board staff shall complete a site visit in 12 months

4. Outside Evaluation

Within 30 days of the effective date of the Order, at the program's expense, retain a Board-approved nursing assistant program consultant who meets current established Board evaluator requirements, including a consultant who will maintain objectivity and has no prior/current personal, professional, or financial connection to the program or its parent

company, and additionally has a minimum of 5 years experience in consulting for nursing programs regarding overall program operations and academics, or as a nursing program administrator (for programs who have maintained good standing with their accreditors and government regulators) and who holds a doctorate in nursing or nursing education.

Respondent shall cause the consultant to provide a comprehensive evaluation report that is objective, detailed, comprehensive, and unbiased, including the items listed above and any other observations regarding areas for improvement, with specific recommendations for remediation, to the Board within 90 days of the effective date of the Order. The evaluation report shall include time frames for implementation of recommendations.

Respondent shall implement the recommendations of the consultant within the time frames as recommended by the consultant, including any new recommendations that the consultant identifies during the period of probation, including but not limited to additional training/education for faculty and/or administrators on an ongoing basis during the period of probation.

Respondent shall cause the consultant to continue to monitor the program and provide quarterly reports to the Board for 12 months, and quarterly thereafter for the duration of the order, that detail the progress of implementation of the consultant's recommendations and any other observations, concerns, or recommendations by the consultant.

For all evaluations, Respondent will be required to comply with all recommendations of the evaluator and submit quarterly reports unless otherwise noted.

The Board reserves right to amend consent based on recommendations of evaluator.

4. 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.

5. 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.

6. 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.

7. 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.

8. Costs

Respondent shall bear all costs of complying with this Order.

9. 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.

10. Voluntary Surrender of Approval

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

11. Completion of Order

Respondent is not eligible for early termination of this 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.
Executive Director

Dated: Jan 17, 2024

JR/SB/sb

Transmitted this 15th day of December via Adobe Sign to:
Kerrie Hess, MSN, RN, Mohave Community College- Kingman Nurse Assistant Program:
Email: khess@mohave.edu

1801 Detroit Avenue
Kingman 86404

Also sent via US Mail and US Certified Mail (CertNumber) to: (7021 1970 0000 9121 6327)

By: Sarah Burton
Administrative Assistant III

Fully Executed copy sent this 01/17/2024 , via Adobe Sign to:
Kerrie Hess, MSN, RN, Mohave Community College- Kingman Nurse Assistant Program:
Email: khess@mohave.edu

1801 Detroit Avenue
Kingman 86404

Signature: *Sarah Burton*
Sarah Burton (Jan 17, 2024 09:21 MST)

Email: sburton@azbn.gov