

**BEFORE THE ARIZONA STATE BOARD OF NURSING**

IN THE MATTER OF NAVAJO  
TECHNICAL UNIVERSITY NURSING  
ASSISTANT PROGRAM NO. NA1090

ISSUED TO:

NAVAJO TECHNICAL UNIVERSITY  
NURSING ASSISTANT  
¼ Mile E. Hwy. 191, Rt. 7, Trailer 2510  
Chinle, AZ 86503

RESPONDENT

**CONSENT AGREEMENT  
AND  
ORDER NO. 22034NA1090**

**CONSENT AGREEMENT**

The Arizona State Board of Nursing (“Board”) and Navajo Technical College (“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 Chinle, Arizona, receiving its original approval in 2014. Respondent’s last program approval was on 6/28/2021.
2. On 5/19/2016 Respondent was issued a Notice of Deficiency for low pass rates for the calendar year 2015. On 3/24/2017 The Board resolved Respondent’s

deficiencies. On 3/23/2018 Respondent received a Letter of Concern for low annual pass rates in written and skills for the 2017 calendar year. On 9/24/2019 Respondent entered into a consent agreement for 18 months' probation for low pass rates in 2018. On September 2, 2020, Respondent entered into a consent agreement Order No. #190103NA1090 for 24 month Suspension for a minimum period of 24 months, however the suspension is stayed for as long as Respondent remains in compliance with this Order. (attached and incorporated herein) For failing to adequately prepare students to pass the written and skills exam for the 2019 annual pass rates. Respondents' 2019 annual pass rates were 56% for the written exam and 75% for the skills exam. Respondents' written pass rate, for calendar year 2019, is below the minimum requirement of 67% (written) 62% (skills) as required in R4-19-801(E). Respondent had 3 years 2017, 2018 and 2019 of low annual pass rates. Respondent was more than 7 days late on two quarterly reports for their reports due on 10-31-2019 and 1-31-2020.

3. Respondent's Nursing Assistant (NA) program's first time student pass rate on the written and the skills certifying examinations are below the minimum requirement for 2020 and 2021 as required in R4-19-802(E). Respondent's annual pass rate for the written exam in 2021 was 44% (Respondent's skill pass rate was 67% and met the rule requirements). Respondent scores were below the state required standard of less than 59% on the written exam and 62% on skills. Pass rates for 2020 were below the state minimums. Respondent's annual pass rate for the skills exam in 2020 was 45% (Respondent's written pass rate was 64% and met

the rule requirements). Respondent scores were below the standard of less than 62% on the written exam and 63% on skills.

### **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, (i) Failing to comply with a stipulated agreement, consent agreement or board order and (j) Violating a rule that is adopted by the Board pursuant to this chapter (effective September 29, 2021); and currently cited as R4-19-801. 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.

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.



Signature of Approved Respondent Representative

Date: 8-23-22

ARIZONA STATE BOARD OF NURSING

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

Dated: 08-25-2022

## **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 consent to the terms and conditions of the Order and waiver of the public hearing is accepted. This Order supersedes Order No. 190103NA1090
- C. Respondent's approval is hereby revoked; however, the revocation is stayed for a minimum of 18 months; however the revocation is stayed for as long as Respondent remains in compliance with this Order. During the stay of the revocation, Respondent's program approval is placed on probation for at minimum 36 months with terms and conditions. During these combined minimum 36 months probation, the program must have enrolled students and conduct regular program operations, including didactic and clinical sessions, for a minimum of 36 months.
- D. If Respondent is non-compliant with any of the terms of the Order, Respondent Program's non compliance shall be reviewed by the Board for consideration of possible further discipline on Respondent Program's nursing program. During the first 18 months stayed revocation period, non compliance may result in the stay of the revocation may be lifted and Respondent may enter into a teach out process, followed by Respondent's approval being automatically revoked for a minimum period of two (2) years. The Board or its designee, in its sole discretion, shall determine non compliance with the stayed revocation portion of the Order. Respondent waives any and all rights to any further review, hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

E. 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.

G. 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.

H. 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.

I. 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 by Cohort**

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

- a. Notification on the Board's Website
- b. Completion Rates
- c. Attrition by cohort

- d. Admissions per cohort
- e. Personnel changes
- f. Curriculum changes
- g. Results of confidential and anonymous student evaluations of nursing assistant courses, instructors, clinical experience and the overall program.
- h. Results of pass rates of each cohort testing with D & S
- i. Grievances/complaints: – Any written or verbal complaints or concerns or concerns, formal or informal, including comments on evaluations, regarding the nursing assistant 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.
- j. The first report is due on the first assigned monthly report due date after the effective date of the order.

3. Outside Evaluation

Outside Evaluation: Continue outside evaluator for the duration of the probation as ordered on previous signed consent agreement order# 190103NA1090. Evaluator 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 as ordered on each cohort within 30 days of graduation and annual evaluations.

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.

Respondent is required to comply with all recommendations of the evaluator and submit monthly implementation reports unless otherwise noted.

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 Stayed Revocation

If, during the stayed revocation portion of the Order, Respondent is noncompliant with the terms of the Order in any way, the stay of revocation shall be lifted and Respondent's approval shall be automatically revoked, and further disciplinary action may occur. 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, including 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.

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

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: 08-25-2022

JR/CG:dh

Transmitted this 15th day July, 2022, via Adobe Sign to:

Arleana Benallie, Administrator  
Navajo Technical University Nursing Assistant Program  
¼ Mile E. Hwy. 191, Rt. 7, Trailer 2510  
Chinle, AZ 86503  
Email: [abenallie@navajotech.edu](mailto:abenallie@navajotech.edu)  
Approved Respondent Representative

By: **Yolanda Holmes-Pickett**, Administrative Assistant

Fully Executed copy sent this 25 day of August, 2022, via Adobe Sign to:

Arleana Benallie, Administrator  
Navajo Technical University Nursing Assistant Program  
¼ Mile E. Hwy. 191, Rt. 7, Trailer 2510  
Chinle, AZ 86503  
Email: [abenallie@navajotech.edu](mailto:abenallie@navajotech.edu)  
Approved Respondent Representative

By: **Yolanda Holmes-Pickett**, Administrative Assistant