

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF NURSING

**In Re: Nashua Community College- RN
Program
Program # US51402300**

ORDER OF PROBATION – 08/25/22

I. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 04/14/22, the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”), acting on behalf of the Board of Nursing (“Board”), received a reliable anonymous communication from an informant alleging Nashua Community College- RN Program (“Program”) was running into issues keeping full-time and part-time staff. On 05/13/22, pursuant to RSA 326-B:32, III, (2)(b) and N.H. Code Admin. R., Title Nur 603.07 (“Rules”), members of the Board and OPLC staff, conducted a review of the nursing education program at the Program to determine whether the school was in compliance with statutes and rules governing nursing education programs. As part of that review, the Board approved a deficiency improvement plan for the Program, which was presented to it in a letter from OPLC Enforcement dated 06/24/22. On 08/24/22, due to ongoing concerns about the staffing issues at the Program and the first day of fall classes being 08/29/22, a non-recused quorum of the Board voted to place the program on probation, pursuant to RSA 326-B:32 and Rule 603.05. This Order of Probation follows.

II. LEGAL STANDARD:

“The board shall establish standards for the establishment and outcomes for nursing and nursing assistant education programs intended to prepare students for licensure or for certification, including

clinical learning experiences.” RSA 326-B:32, I(a). “The board shall approve, disapprove, or withdraw approval for nursing education programs that meet or fail to meet the requirements of this chapter and the rules adopted by the board...” RSA 326-B:32, I(b). The Board’s rules explain that:

If the board denies a request of a sponsoring institution to grant full approval to a nursing education program under Nur 603.04, the board shall enter a written order that:

- (1) Changes the status of the program from “initially approved” to “approved on probation”;
- (2) Identifies all deficiencies required to be corrected for the program to come into compliance with these rules and RSA 326-B: 32;
- (3) Provides a reasonable period of time of not less than 90 days to submit an action plan to correct the identified program deficiencies; and
- (4) Provides notice of the right of the sponsoring institution to seek a hearing pursuant to Nur 200 to address the findings of the board.

Rule 603.05(a).

Additionally, the Board rules empower the Board to take the following action with respect to a nursing education program it places on probation:

- (1) Limit or suspend admissions and enrollment;
- (2) Not add new sites or expand the program;
- (3) Submit to additional site visits; and
- (4) Submit interim data, including but not limited to:
 - a. Progress reports;
 - b. Syllabi of courses, and evaluations of faculty performance;
 - c. Reviews of textbooks, and electronic resources used to promote student learning outcomes;
 - d. National nursing accreditation findings; and
 - e. Financial and student records when necessary to verify the accuracy of the institution’s self-study.

Rule 603.05(g).

III. EVIDENCE PRESENTED AND FINDINGS OF FACT:

A. Evidence Presented

The Board was presented with and/or considered the following evidence: testimony from recused Board Member, Samantha O’Neill, as well as the following documentation: 1) 04/27/22 Confidential Memorandum from Michael Porter, Investigations Bureau Chief, OPLC Enforcement; 2) 06/24/22 Letter

from OPLC Enforcement to the Program, providing the Board's Deficiency Improvement Plan; 3) 08/01/22 Letter from OPLC Enforcement to the Program, clarifying the Board's Deficiency Improvement Plan; 4) 08/08/22 Confidential Memorandum from Michael Porter, Investigations Bureau Chief, OPLC Enforcement; 5) 08/10/22 Letter from the Program to Michael Porter; 6) 08/16/22 Confidential Memorandum from Stacy Nachman, LPN/RN Program Specialist to the Board; 7) 08/24/22 Confidential Memorandum from Michael Porter, Investigations Bureau Chief, OPLC-Division of Enforcement to Lindsey Courtney, Executive Director, OPLC and Jessica Kallipolites, Division Director, OPLC Enforcement; and 8) a 2022 Fall Workload for the Program provided by Nashua Community College President Lucille Jordan. The Board also relied on its expertise in the field and programs it regulates. A review of the evidence presented, and the reasonable inferences taken therefrom, allows the Board to find the following facts.

B. Findings of Fact

On or about 04/14/22, OPLC Enforcement, acting on behalf of the Board, received a reliable, anonymous communication from an informant, alleging Nashua Community College- RN Program ("Program") was running into issues keeping full-time and part-time staff. The informant spoke with both Michael Porter and Stacy Nachman on separate occasions on 04/14/22. In each instance, the informant consistently stated that since the fall of 2021, the Program has lost at least five combined part-time and full-time instructors. As of 04/14/22, the program only had two full time instructors, with one being the Program's Director. The informant was concerned with the viability of the program and the effects it had on student and faculty morale.

After further investigation into the veracity of the informant's statements by OPLC Enforcement, the Board voted to audit and conduct a program re-evaluation of the Program to determine whether, as currently situated, it remained in compliance with the Board's program approval. On Friday, 5/13/2022,

members of the Board of Nursing (“BON”) and staff conducted an on-site visit to Nashua Community College for the purposes of conduct a Nursing Program re-evaluation pursuant to RSA 326-B:32, III (b) and Nur 603.07. The results of the on-site re-evaluation found deficiencies and made recommendations for how they could be rectified. These results were presented to the Board, which approved them at its next regular meeting.

On 06/24/22, the results of the re-evaluation, which included the Board’s concerns and recommendations, were submitted to the Program for review and response in a letter from Michael Porter. The letter specified the Board required a written update on the status of the deficiencies at the following intervals upon receipt of the letter: 30/60/90 days. On 07/13/22, the Program requested clarification on some of the deficiencies listed in the 06/24/22 letter, which upon review by the Board at its 07/28/22 meeting, it addressed. The Board’s response was later presented to the Program in a 08/01/22 letter sent by OPLC Enforcement.

As of 08/03/22, based on the information it had, OPLC Enforcement continued to have significant concerns about the staffing issues at the Program. Consequently, OPLC Enforcement met with representatives of the Program to discuss the matter in more detail. At issue was that fall classes were commencing on 08/29/22 and the Program still had two full-time faculty positions open, albeit the Program had presented one job offer and had an interview scheduled for the second position. After the meeting, the Program communicated on 08/10/22 that it had filled the two open positions.¹ However, only nine days later, the Program updated OPLC Enforcement that one of the full-time instructors hired had resigned.

OPLC Enforcement contacted the instructor who had resigned on 08/24/22 to learn why she had suddenly departed. According to the instructor, she had met with members of the Programs in Academic

¹ The Program also submitted a written response to the Board’s concerns and recommendations outlined in the letter of 06/24/22.

Affairs to express her position that the Program cannot deliver a proper education to the 48 students in the program (18 seniors, 30 freshmen) with the number of current staff. The instructor was worried enough about the situation that she advised Academic Affairs to delay the freshmen by one year and concentrate on the 18 seniors.

On 08/25/22, due to ongoing concerns about the staffing issues at the Program, a recused member of the Board, representatives from OPLC, Board Counsel, representatives from the Governor's office, and representatives from the Program had a videoconference call to discuss the matter. Based upon that discussion and a 2022 Fall Workload that was presented by the Program, the Board learned that there are currently significantly high instruction and clinical responsibilities being placed on the Program's adjunct faculty. For example, one lecturer has eleven lectures, while another has five. Moreover, one adjunct is providing six hours per week of clinical along with multiple lectures; another is providing twelve hours per week of clinical; and a third has 6 hours per week of freshmen level clinical. The Board also learned that the program is not in compliance with student to faculty ratios, which are 1 faculty per 8 students for clinical hours and 1 faculty per 12 students for classroom instruction. *See Nur 602.09.*

IV. FURTHER FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Board finds and concludes it initiated a program approval status re-evaluation pursuant to Rule 603.07(e) and (j) that remains ongoing with recommendations provided to the Program on 06/24/22. The Board finds and concludes that as of 08/25/22 faculty turnover continues to be a problem at the Program, which renders it out of compliance with Board rules about student to faculty ratios. Based upon the foregoing the Board hereby changes the status of the Program to "approved on probation", pursuant to Rule 603.05. The Board identifies the issues that need to be addressed in the Program as those contained in the 06/24/22 concerns and recommendations to the Program referenced herein and which the Board hereby incorporates by reference into this Order; this includes the ongoing staffing concerns. Further

within ninety (90) days of the signed date of this order, the Program shall submit an action plan to correct the identified program deficiencies. **The Program is hereby notified of its right to seek a hearing on this Order of Probation and its findings pursuant to Nur 200. An appeal of an order hereunder shall not stay the change in the status of the Program but shall stay the obligations of the Program as explained in Rule 603.05(b).** If the Program accepts the change in status without appeal, it shall take the actions required in accordance with Rule 603.05(c). Pursuant to Rule 603.05(d), no later than one calendar year after notification of a change to probation status, the Program shall correct the deficiencies noted herein; or request an extension in the manner prescribed in Rule 603.05(d)(2).

V. ORDER:

Pursuant to its findings of fact and conclusions of law, RSA 326-B:32 and Rules 600 et seq., the Board hereby orders the following:

1. Pursuant to Rule 603.05 the status of the Program is changed to “approved on probation”; and
2. Pursuant to Rule 603.05(c)(1), the Program shall submit an action plan to correct the identified deficiencies within 90 days of the signed date of this order that complies with Rule 603.05(c)(1) and (2); and
3. Correct the deficiencies identified herein and come into compliance with Board requirements no later than one calendar year from the date of this order; and
4. Pursuant to Rule 605.03(g) the program shall additionally:
 - a. Provide the Board with a retention strategy for its faculty; and
 - b. Develop a contingency plan for if it loses staff; and
 - c. Provide the Board written notification of any faculty changes (including resignations) within twenty-four (24) hours of them occurring; and

- d. Allow periodic check-ins with staff and faculty by the Board and its staff, including in both classroom and clinical locations; and
- e. Adhere to the Board recommendations contained in the letter from Michael Porter to the Program dated 06/24/22; and
- f. Any additional requirements the Board may later impose pursuant to Rule 605.03(g), as it determines is necessary during the Program's probationary status.

DATED: 8/26/2022

_____/s/ Nikolas Frye _____
Hearings Examiner
Authorized Representative of the Board of Nursing-
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301