



Ohio Board of Nursing

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17 South High Street, Suite 400 • Columbus, Ohio 43215-7410 • (614) 466-3947

March 22, 2010

Career College LPN Program Miami-Jacobs
401 E. 3rd Street
Dayton, OH 45402

Dear Miami-Jacobs:

Enclosed is your Notice of Opportunity for a Hearing. Please review the document carefully. Please direct any communication regarding this correspondence to the attention of **Lisa Ferguson-Ramos, RN, JD, Compliance Manager by telephone at (614)995-3635 or by email at hearing@nursing.ohio.gov.**

Sincerely,

A handwritten signature in cursive script that reads "Betsy J. Houchen".

Betsy J. Houchen, R.N., M.S., J.D.
Executive Director

LFR/akm

cc: Leah O'Carroll
Assistant Attorney General

Certified Mail
Receipt No. 7002 0860 0006 5913 3822

2nd address
Receipt No. 7002 0860 0006 5913 3839

3rd address
Receipt No. 7002 0860 0006 5913 3846

Encl: One (1)



Ohio Board of Nursing

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17 South High Street, Suite 400 • Columbus, Ohio 43215-7410 • (614) 466-3947

March 19, 2010

NOTICE OF OPPORTUNITY FOR HEARING

Miami-Jacobs Career College
Practical Nursing Program
Attention: Brenda Cottrell, RN, Administrator
401 E. 3rd Street
Dayton, Ohio 45402

Dear Ms. Cottrell:

You are hereby notified that effective March 20, 2009, Miami-Jacobs Career College Practical Nursing Program (Program) entered into an Addendum to a March 14, 2008 Consent Agreement (the "March 2009 Addendum" and "March 2008 Consent Agreement") with the Ohio Board of Nursing (Board), a copies of which are attached hereto and incorporated herein, under which the Program's conditional approval status was extended for an additional period of one (1) year, until March 18, 2010, at which time the Board was to review its status. Attached to the March 2009 Addendum is the March 2008 Consent Agreement. Attached to and incorporated within the March 2008 Consent Agreement is a copy of a Notice of Opportunity for Hearing issued to the Program by the Board on January 17, 2008 (January 2008 Notice). The March 2009 Addendum, "**AGREED CONDITIONS**" provides that the terms, conditions and limitations of the March 2009 Addendum are *in addition to the terms conditions and limitations set forth in the March 2008 Consent Agreement*.

1. Item 9. of the March 2008 Consent Agreement provides that, "In addition to the requirements set forth in Rule 4723-5-09 (D)(1), Ohio Administrative Code (OAC), **MIAMI-JACOBS** shall inform the Board within ten (10) business days, in writing, of any change in its administrator." Despite this, the Program failed to notify the Board that on or about January 6, 2010, the Program Administrator, Diane Cooke, left the position, and was replaced by you on or about January 11, 2010. On February 22, 2010, in an email from Faith Mitchell, "Dayton Campus Director," the Program stated, "I planned on notifying you . . . Our hope was to let you know then and submit it in writing. Brandy and I will send you the notification in writing." The Board received written notification of the change on or about March 10, 2010.
2. The March 2008 Consent Agreement, Item 6., provides that, "**MIAMI-JACOBS** and its administrator shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or

documentation to the Board, or to **MIAMI-JACOBS'** staff, students or applicants for admission." A similar requirement is imposed by Item 6. of the March 2009 Addendum.

At the time the Program entered into the March 2009 Addendum, the Program knowingly and voluntarily made the following statement of fact to the Board in Item D. 4) of the March 2009 Addendum:

Despite the requirements in Rule 4723-5-11, OAC, **MIAMI-JACBOS [sic]** allowed a faculty member, who did not have a baccalaureate degree in nursing, to teach "Nursing 125" and allowed a licensed dietician, who did not possess a nursing degree or nursing license, to teach "Nursing 120 Nutrition." **MIAMI-JACOBS explains that it has replaced these individuals with faculty members holding baccalaureate degrees in nursing.**

(Emphasis added)

Despite the above factual assertion, during the Board's December 2-3, 2009 survey visit, the Program provided Board staff with copies of faculty meeting minutes, dated April 1, 2009. Page 4 of the minutes states:

Ms. Richards-OBN site says you must have a BSN to teach an LPN nursing class **and we said in the report that we have complied, but Ms. Richards is a nutritionist and not a nurse . . .** Get her name off the syllabus-Ms. Scandrck would be the primary instructor. It is a pre-licensure course with the nursing process involved so a nurse has to teach it. **Ms. Richards is a masters prepared nutritionist so we will keep Ms. Richards and then worry about who will take it over later. We will keep Ms. Richards over another nursing instructor and there will be no instructor involved in the class until Ms. Richards leaves because MJCC will not pay for an instructor to do nothing. . . .**

Plan of action: • Ms. J.D. said to leave nutrition alone for now

(Emphasis added)

In accordance with the paragraph under "**FAILURE TO COMPLY**" of the March 2009 Addendum, you are hereby notified that it appears to the Board that you have violated Items 6. and 9. of the March 2008 Consent Agreement.

You are further notified that in accordance with Chapter 119, Ohio Revised Code (hereinafter "ORC"), the Board proposes under authority of Section 4723.06(A)(6), ORC, to continue or

withdraw conditional approval, or grant full approval status to the Program for the following reasons:

1. On December 2-3, 2009, the Board conducted an announced survey visit of the Program to review whether the Program was meeting and maintaining the standards for education programs established in Chapter 4723-5, Ohio Administrative Code (OAC), in accordance with Rule 4723-5-06, OAC. On or about December 17, 2009, the Board sent the Program a Survey Visit Report identifying multiple standards not met and maintained. On February 18, 2010, the Board received documentation in response to the Survey Visit from the Program (Response). On March 18-19, 2010, the Board met and, having considered the Survey Report and the Program's Response, has determined that the following standards established in Chapter 4723-5, OAC, have not been met or maintained:
 - a. Despite being required by Rule 4723-5-06(C), OAC, and Rule 4723-5-05, OAC, the Program failed to complete a presurvey visit report in a format prescribed by the Board and submit the presurvey visit report to the Board at least three weeks prior to the scheduled date of the survey visit.

On or about June 10, 2009, the Board notified the Program that a survey visit would be conducted on October 28-29, 2009 and that a presurvey visit report was to be submitted electronically, on CD-ROM to the Board not later than October 7, 2009. The Program failed to submit a presurvey visit report.

On or about October 21, 2009, the Board notified the Program that it would reschedule the survey visit, due to the lack of a presurvey visit report, for December 2-3, 2009, and that a presurvey visit report was to be submitted electronically, on CD-ROM to the Board not later than November 12, 2009. The October 21, 2009 letter from the Board included instructions on the type of information that the presurvey visit report was to include. The Program failed to submit a presurvey visit report by November 12, 2009. The presurvey visit report eventually submitted by the Program, on or about November 20, 2009, failed to include information, as instructed by the Board, regarding the Program's compliance with Rules 4723-5-15, OAC and 4723-5-12, OAC.

- b. Despite being required by Rule 4723-5-06(B)(1), OAC, the Program did not notify the students at Program locations of the anticipated dates of the scheduled December 2-3, 2009 survey visit. Rather, the Program's notice (a copy of which the Program submitted to the Board), indicated the dates of the survey visit were December 1-2,

2009. When Board staff brought this to the attention of Diane Cooke, the Program Administrator at the time, Ms. Cooke stated, “but I told everyone you would be here on the first and the second.”

- c. Despite being required by Rule 4723-5-17(A), OAC, during the December 2-3 survey visit, Board staff reviewed the Program’s agreement with Harborside Healthcare, on file at the Program’s office, and observed that the agreement was not signed by a Program representative. In its Response, the Program states that a signed agreement is located in “a vault” but has not provided a signed agreement to the Board.

Section 4723.06(A)(6), ORC, authorizes the Board to withdraw conditional approval and deny full approval to a program that has failed to meet and maintain the standards established by rules adopted under Section 4723.07, ORC.

Accordingly, the Board is authorized to propose to withdraw conditional approval and deny full approval to the Program based upon its apparent breach of the March 2009 Addendum and March 2008 Consent Agreement, and its failure to meet and maintain the standards established in rules adopted under Section 4723.07, ORC.

In accordance with Chapter 119, ORC, you are hereby informed that the Program is entitled to a hearing in this matter. If the Program wishes to request such hearing, the request must be made in writing and must be received in the Board office within thirty (30) days of the time of mailing of this notice.

You are hereby further informed that, if the Program timely requests a hearing, Section 119.07, ORC, states that “at the hearing [the Program] may appear in person, by its attorney, or by such other representative as is permitted to practice before the [Board], or may present [its] position, arguments, or contentions in writing.” At the hearing the Program may also present evidence and examine witnesses appearing for and against the Program.

Should you choose to request a hearing, please mail or deliver the request, in addition to any other correspondence regarding this matter, to **Lisa Ferguson-Ramos, Compliance Unit Manager, Ohio Board of Nursing, 17 South High Street, Suite 400, Columbus OH 43215-7410, or to the email address, hearing@nursing.ohio.gov.**

If the Board fails to receive a request for a hearing within thirty (30) days of the time of mailing of this notice, the Board may, in the Program’s absence and upon consideration of the factual and legal allegations set forth in this Notice of Opportunity for Hearing, continue or withdraw conditional approval, or grant full approval.

Sincerely,



Bertha M. Lovelace, RN, CRNA, President

Certified Mail Receipt No. 7002 0860 0006 5913 3822

Attorney #1 Certified Mail Receipt No. 7002 0860 0006 5913 3839

Attorney #2 Certified Mail Receipt No. 7002 0860 0006 5913 3846

cc: Melissa L. Wilburn, Assistant Attorney General
Janet K. Feldcamp, Esq.
Elizabeth Y. Collis, Esq.



**ADDENDUM TO
CONSENT AGREEMENT
BETWEEN
MIAMI-JACOBS CAREER COLLEGE
PRACTICAL NURSING PROGRAM
AND
OHIO BOARD OF NURSING**

This Addendum to the Consent Agreement (Addendum) is entered into by and between **MIAMI-JACOBS CAREER COLLEGE PRACTICAL NURSING PROGRAM (MIAMI-JACOBS)** and the Ohio Board of Nursing (Board), the state agency charged with enforcing Chapter 4723. of the Ohio Revised Code (ORC), and all administrative rules promulgated thereunder.

MIAMI-JACOBS voluntarily enters into this Addendum being fully informed of its rights under Chapter 119, ORC, including the right to representation by legal counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Addendum is entered into on the basis of the following stipulations, admissions and understandings:

- A. Section 4723.06(A)(6), ORC, authorizes the Board to grant conditional approval, by a vote of the quorum of the Board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under Section 4723.07 of the Revised Code. If the Board grants conditional approval, at its first meeting after the first class has completed the program, the Board shall determine whether to grant full approval to the program. If the Board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the Board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on the results of the adjudication, the Board may continue or withdraw conditional approval, or grant full approval.

- B. **MIAMI-JACOBS** was initially granted conditional approval by the Board, effective September 21, 2006. **MIAMI-JACOBS'** conditional approval was extended for one (1) year and subject to the terms and conditions of the Consent Agreement **MIAMI-JACOBS** entered into with the Board, effective March 14, 2008 (March 2008 Consent Agreement), a

copy of which is attached hereto and incorporated herein. Attached to and incorporated within the March 2008 Consent Agreement is a copy of the Notice of Opportunity for Hearing issued to **MIAMI-JACOBS** by the Board on January 17, 2008 (January 2008 Notice).

- C. On November 5-6, 2008, the Board conducted an announced survey visit of **MIAMI-JACOBS** to review whether it is meeting and maintaining the standards for education programs established in Chapter 4723-5, Ohio Administrative Code (OAC), in accordance with Rule 4723-5-06(A)(2), OAC. On or about November 25, 2008, the Board sent a Survey Visit Report to **MIAMI-JACOBS** identifying standards that it is not meeting and maintaining. On February 2, 2009, the Board received documentation from **MIAMI-JACOBS** in response to the Survey Visit Report.
- D. **MIAMI-JACOBS** knowingly and voluntarily admits to the following:
- 1) **MIAMI-JACOBS** graduated 40 students in April 2008; 16 students in May 2008; 45 students in July 2008; and 50 students in August 2008.

Despite being required by Rules 4723-5-21 and 4723-5-14, **MIAMI-JACOBS** cannot verify that the April 2008 graduates engaged in obstetrics clinical experiences as set forth in the course syllabus. **MIAMI-JACOBS** does not have documentation to show that any of its graduates engaged in pediatric clinical experiences, as defined in Rule 4723-5-01(F), but **MIAMI-JACOBS** states that these students did have “pediatric clinical time. **MIAMI-JACOBS** explains that it has since created and implemented a preceptor evaluation form to document clinical experiences and secured appropriate obstetrics and pediatric clinical experiences for all students.
 - 2) Despite being required by Rule 4723-5-09, forty (40) faculty files, reviewed during the Survey Visit, contained no evaluations although **MIAMI-JACOBS**’ policy required that completed faculty evaluations be filed in the personnel files. **MIAMI-JACOBS** explains that the evaluations were timely completed but were not “readily available” during the Survey Visit. **MIAMI-JACOBOS** further explains that there is now a secure personnel file specific for the Practical Nursing Program kept at the main campus in Dayton, Ohio and available to designated personnel only.
 - 3) During the Survey Visit, four (4) of the forty (40) faculty files did not contain verification of academic credentials, including official transcripts, as required by Rule 4723-5-21(D)(1), OAC. **MIAMI-**

JACOBS explains that the files are now complete with academic credentials and transcripts.

- 4) Despite the requirements in Rule 4723-5-11, OAC, **MIAMI-JACOBOS** allowed a faculty member, who did not have a baccalaureate degree in nursing, to teach "Nursing 125" and allowed a licensed dietician, who did not possess a nursing degree or nursing license, to teach "Nursing 120 Nutrition." **MIAMI-JACOBS** explains that it has replaced these individuals with faculty members holding baccalaureate degrees in nursing.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, **MIAMI-JACOBS** knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations *in addition to the terms, conditions and limitations set forth in the March 2008 Consent Agreement*:

1. **MIAMI-JACOBS'** conditional approval status is hereby extended for one (1) year, until March 18, 2010, at which time its status will be reviewed by the Board pursuant to Section 4723.06(A)(6), ORC.
2. **Unless otherwise approved in advance by the Board or its representative, MIAMI-JACOBS** shall not expand to any other locations prior to March 18, 2010. Six (6) months after the effective date of this Addendum, **MIAMI-JACOBS** may request authorization from the Board or its representative to expand to only one location after demonstrating compliance with this Addendum and Chapter 4723-5, OAC.
3. **MIAMI-JACOBS**, through its administrator, shall continue to provide written progress reports, as explained in Paragraph 4. of March 2008 Consent Agreement, to the Board on or before the following dates: June 4, 2009; September 4, 2009; December 4, 2009; and March 4, 2010.
4. **By April 15, 2009 MIAMI-JACOBS** shall submit to the Board, for review and approval, a draft of notification to every facility with whom it has an affiliation agreement securing clinical experiences for its students, in accordance with Rule 4723-5-17, OAC. The notification shall inform the facility that **MIAMI-JACOBS's** conditional approval status is subject to the terms and conditions of this Addendum and March 2008 Consent Agreement and that this Addendum and March 2008 Consent Agreement are available on the Board's website or will be provided by **MIAMI-JACOBS** upon the facility's request. **Within thirty (30) days of receiving Board approval of the notification, MIAMI-JACOBS** shall provide the notification to every facility. Further, **within thirty (30) days of providing the notification to every facility, MIAMI-JACOBS** shall submit documentation to the Board

identifying each facility that has received the Board-approved notification; identifying each facility that requested a complete copy of this Consent Agreement; and attesting that, when requested, **MIAMI-JACOBS** has provided a complete copy of this Consent Agreement to the requestor.

5. **MIAMI-JACOBS** is under a continuing duty to provide notification and, upon request, a complete copy of this Consent Agreement to any new facility providing clinical experiences for its students, in accordance with Rule 4723-5-17, OAC.
6. **MIAMI-JACOBS** and its administrator shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or documentation to its staff, its students, its applicants for admission, or to the Board or its representatives.

FAILURE TO COMPLY

MIAMI-JACOBS agrees that its conditional approval status will be considered at the March 18-19, 2010 Board meeting, at which time the Board may grant or deny full approval status. If it appears that **MIAMI-JACOBS** has violated or breached any terms or conditions of the Consent Agreement prior to March 18, 2010, the Board may issue a Notice of Opportunity for Hearing and propose to withdraw **MIAMI-JACOBS**' conditional approval status. The Board reserves the right to take action based upon any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

DURATION/ MODIFICATION OF TERMS

The terms, limitations, and conditions of this Addendum and the March 2008 Consent Agreement may be modified or terminated, in writing, at any time upon the agreement of both **MIAMI-JACOBS** and the Board.

ACKNOWLEDGMENTS/LIABILITY RELEASE

All terms of the March 2008 Consent Agreement remain in effect.

MIAMI-JACOBS acknowledges that it has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

MIAMI-JACOBS waives all of its rights under Chapter 119, ORC, as they relate to matters that are the subject of this Consent Agreement.

MIAMI-JACOBS waives any and all claims or causes of action it may have against the Board, and its members, officers, employees and/or agents arising out of matters that are the subject of this Consent Agreement.

This Consent Agreement is not meant to preclude MIAMI-JACOBS from submitting curriculum revisions to the Board in accordance with Rule 4723-5-16, OAC, or institute curriculum revisions that do not require Board submission or approval, prior to the March 18-19, 2010 Board meeting.

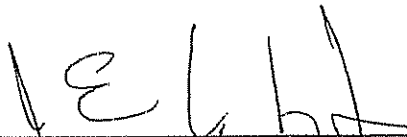
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, ORC. The information contained herein may be reported to appropriate organizations, data banks and governmental bodies.

This Consent Agreement is not an adjudication order within the meaning of Sections 119.06 or 119.07, ORC. Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedures Act, Chapter 119, ORC.

MIAMI-JACOBS agrees that the Board is legally authorized under Section 4723.06(A)(6), ORC, to enter this Consent Agreement with MIAMI-JACOBS, in lieu of a hearing under Chapter 119., ORC, in order to continue its conditional approval status, and waives any legal argument to the contrary.

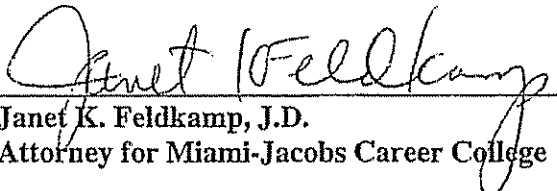
EFFECTIVE DATE

MIAMI-JACOBS understands that this Consent Agreement is subject to ratification by the Board prior to signature by the Board President and shall become effective upon the last date of signature below.



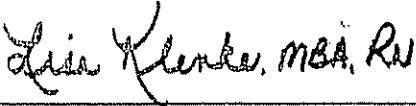
James Lively, Program Director
Miami-Jacobs Career College

3-13-09
DATE



Janet K. Feldkamp, J.D.
Attorney for Miami-Jacobs Career College

3/13/09
DATE



LISA KLENKE, President
Ohio Board of Nursing

3/20/09
DATE



Ohio Board of Nursing

www.nursing.ohio.gov

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**CONSENT AGREEMENT
BETWEEN
MIAMI-JACOBS CAREER COLLEGE PRACTICAL NURSING
PROGRAM
AND
OHIO BOARD OF NURSING**

This Consent Agreement is entered into by and between **MIAMI-JACOBS CAREER COLLEGE PRACTICAL NURSING PROGRAM (MIAMI-JACOBS)** and the Ohio Board of Nursing (Board), the state agency charged with enforcing Chapter 4723, of the Ohio Revised Code (ORC), and all administrative rules promulgated thereunder.

MIAMI-JACOBS voluntarily enters into this Consent Agreement being fully informed of its rights under Chapter 119, ORC, including the right to representation by legal counsel and the right to a formal adjudicative hearing on the issues considered herein.

This Consent Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Consent Agreement.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4723.06(A)(4), Ohio Revised Code (ORC), to define the minimum curricula and standards for education programs of the schools of professional nursing and schools of practical nursing in this state. Section 4723.06(A)(5), ORC, authorizes the Board to survey, inspect, and grant full approval to prelicensure nursing education programs that meet the standards established in rules adopted under section 4723.07 of the Revised Code. Section 4723.06(A)(6), ORC, authorizes the Board to grant conditional approval, by a vote of the quorum of the Board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under Section 4723.07 of the Revised Code. If the Board grants conditional approval, at its first meeting after the first class has completed the program, the Board

MIAMI-JACOBS CAREER COLLEGE PRACTICAL NURSING PROGRAM

Page 2

shall determine whether to grant full approval to the program. If the Board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the Board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on the results of the adjudication, the Board may continue or withdraw conditional approval, or grant full approval. Section 4723.07(B), ORC, authorizes the Board to establish minimum curricula and standards for nursing education programs that prepare graduates to be licensed under this chapter and procedures for granting, renewing, and withdrawing approval of those programs. Chapter 4723-5, Ohio Administrative Code (OAC), establishes requirements for nursing programs to meet and maintain in order to obtain conditional, provisional, and full Board approval.

- B. **MIAMI-JACOBS** was granted conditional approval by the Board effective September 21, 2006.
- C. **MIAMI-JACOBS** currently operates in Dayton, Ohio and has branch nursing programs located in Troy and Springboro, Ohio.
- D. **MIAMI-JACOBS** acknowledges that it received the Notice of Opportunity for Hearing issued by the Board on January 17, 2008 (January 2008 Notice), a copy of which is attached hereto and incorporated herein, but states that it will not agree to, nor deny, any of the factual or legal allegations set forth in the January 2008 Notice.
- E. **MIAMI-JACOBS** is operated by Miami-Jacobs Business College Company, a duly organized Ohio for-profit corporation, also known as "Miami-Jacobs Career College", which is legally authorized to enter this Consent Agreement on behalf of **MIAMI-JACOBS**.
- F. On or about June 19, 2007, **MIAMI-JACOBS'** Administrator emailed the Board and stated that she had resigned effective June 18, 2007. On or about July 23, 2007, the Board received a letter from **MIAMI-JACOBS** informing the Board of its recruiting and advertising efforts to locate a new Administrator.
- G. On or about August 23, 2007, the Board received a letter from **MIAMI-JACOBS** indicating that the Program hired A. Schilling as an Interim Administrator, and submitted a copy of Ms. Schilling's qualifications. On or about October 9, 2007, the

Board's Nursing Education Consultant wrote to **MIAMI-JACOBS** indicating that Ms. Schilling did not meet the minimum qualifications set forth in Rule 4723-5-11(A)(1)(b), OAC, i.e., an administrator of a program must have at least five years experience in the practice of nursing as a registered nurse, two of which have been as a faculty member of a program.

- H. On or about October 13, 2007, the Board's Nursing Education Consultant sent **MIAMI-JACOBS** the Survey Visit Report (SVR) from the September 18-19, 2007 announced survey visit. The SVR identified rules in Chapter 4723-5, OAC not met or maintained and indicated that **MIAMI-JACOBS** had an opportunity to submit its response to each item no later than 30 days prior to the January 17-18, 2008 Board meeting, at which time the Board would consider **MIAMI-JACOBS'** approval status.
- I. On or about December 14, 2007, **MIAMI-JACOBS** submitted a written response to the SVR by providing information and documentation that, **MIAMI-JACOBS** believed, demonstrated its efforts to comply with Chapter 4723-5, OAC.
- J. In its December 14, 2007 response to the SVR, **MIAMI-JACOBS** informed the Board that, effective December 3, 2007, it had identified a new registered nurse administrator who met the qualifications contained in Rule 4723-5-11, OAC. However, on February 7, 2008, this individual resigned. On or about February 11, 2008, **MIAMI-JACOBS** informed the Board that effective February 8, 2008, **MIAMI-JACOBS** had promoted M. Seale to Administrator; **MIAMI-JACOBS** also provided the Board a new organizational chart. On or about February 19, 2008, **MIAMI-JACOBS** submitted Ms. Seale's educational transcripts for Board review, and the Board Nursing Program Consultant determined that Ms. Seale met the minimum qualifications for an Administrator contained in Rule 4723-5-11, OAC.
- K. **MIAMI-JACOBS** agrees and acknowledges that, with regard to clinical experiences, Rule 4723-5-20 (B), OAC, requires that clinical experiences be supervised by a faculty member, teaching assistant, or preceptor who meets the qualifications set forth in Rule 4723-11, OAC, not by a physician; and further, that clinical experiences in OBGYN need to be provided. **MIAMI-JACOBS** agrees to obtain clinical experiences for its students in compliance with Chapter 4723-5, OAC.

- L. **MIAMI-JACOBS** seeks to cooperate with the Board and correct the areas of citation in the Notice so that its conditional approval status may be continued and its student enrollment not be adversely affected.
- M. **MIAMI-JACOBS** submitted a request for a hearing in this matter that was received by the Board on January 23, 2008. **MIAMI-JACOBS** agrees that the Board is authorized under law to enter this Consent Agreement with **MIAMI-JACOBS**, in lieu of a hearing under Chapter 119., ORC, in order to continue its conditional approval status.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, **MIAMI-JACOBS** knowingly and voluntarily agrees with the Board to the following terms, conditions, and limitations: **MIAMI-JACOBS'** conditional approval status is hereby continued until **March 19, 2009**, at which time its status will be reviewed by the Board pursuant to Section 4723.06(A)(6), ORC, subject to the following terms and conditions:

1. **MIAMI-JACOBS** shall not expand to any other locations prior to March 19, 2009.
2. Within sixty (60) days following the effective date of this Consent Agreement, **MIAMI-JACOBS** shall submit to the Board a detailed one-year plan for the systematic evaluation of the program.
3. Within ninety (90) days following the effective date of this Consent Agreement, **MIAMI-JACOBS** shall submit to the Board copies of all affiliation agreements with facilities securing clinical experiences for its students, in accordance with Rule 4723-5-17, OAC.
4. **MIAMI-JACOBS**, through its administrator, shall provide written progress reports to the Board on or before the following dates: **June 5, 2008; September 5, 2008; December 5, 2008; and March 5, 2009.** The progress reports shall address how the program is progressing toward implementation of the systematic plan of evaluation, obtaining student clinical experiences, and otherwise meeting the terms and conditions of this Consent Agreement. Within thirty (30) days following the Board's receipt of each of **MIAMI-JACOBS'** progress reports, the Board agrees that, upon request of **MIAMI-JACOBS'** Administrator, a Nursing Education Consultant or the Education Program Manager will be available to participate in a telephone

conference with the Administrator and provide feedback regarding the progress report.

5. A survey visit of MIAMI-JACOBS will be conducted, in accordance with Rule 4723-5-06, OAC, prior to the Board's consideration of MIAMI-JACOBS' program approval status at the March 2009 Board meeting. The parties agree that this is a reasonable interpretation of Rule 4723-5-06, OAC, although the first class completed the program in or about November 2007.
6. MIAMI-JACOBS and its administrator shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or documentation to the Board, or to MIAMI-JACOBS' students or applicants for admission.
7. MIAMI-JACOBS shall submit the reports and documentation required by this Consent Agreement or any other documents required by the Board in order to determine the program's compliance with Chapter 4723-5, OAC, to the attention of the Education Unit, Ohio Board of Nursing, 17 South High Street, Suite 400, Columbus, OH 43215-7410.
8. MIAMI-JACOBS shall verify that the reports and documentation required by this Consent Agreement are received in the Board office.
9. In addition to the requirements set forth in Rule 4723-5-09 (D)(1), OAC, MIAMI-JACOBS shall inform the Board within ten (10) business days, in writing, of any change in its administrator.

FAILURE TO COMPLY

MIAMI-JACOBS agrees that its conditional approval status will be considered at the March 19-20, 2009 Board meeting, at which time the Board may grant or deny full approval status. If it appears that MIAMI-JACOBS has violated or breached any terms or conditions of the Consent Agreement prior to March 19, 2009, the Board may issue a Notice of Opportunity for Hearing and propose to withdraw MIAMI-JACOBS' conditional approval status. The Board reserves the right to take action based upon any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

DURATION/ MODIFICATION OF TERMS

The terms, limitations and conditions of this Consent Agreement may be modified or terminated in writing at any time upon the agreement of both MIAMI-JACOBS and the Board.

ACKNOWLEDGMENTS/LIABILITY RELEASE

MIAMI-JACOBS acknowledges that it has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

MIAMI-JACOBS waives all of its rights under Chapter 119, ORC, as they relate to matters that are the subject of this Consent Agreement.

MIAMI-JACOBS waives any and all claims or causes of action it may have against the Board, and its members, officers, employees and/or agents arising out of matters that are the subject of this Consent Agreement.


This Consent Agreement is not meant to preclude MIAMI-JACOBS from submitting curriculum revisions to the Board in accordance with Rule 4723-5-16, OAC, or institute curriculum revisions that do not require Board submission or approval, prior to the March 19-20, 2009 Board meeting.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, ORC. The information contained herein may be reported to appropriate organizations, data banks and governmental bodies.

This Consent Agreement is not an adjudication order within the meaning of Sections 119.06 or 119.07, ORC. Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedures Act, Chapter 119, ORC. MIAMI-JACOBS agrees that the Board is legally authorized under Section 4723.06(A)(6), ORC, to enter this Consent Agreement with MIAMI-JACOBS, in lieu of a hearing under Chapter 119., ORC, in order to continue its conditional approval status, and waives any legal argument to the contrary.

EFFECTIVE DATE

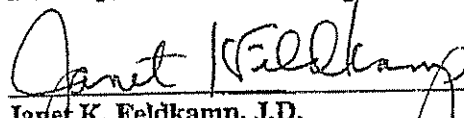
MIAMI-JACOBS understands that this Consent Agreement is subject to ratification by the Board prior to signature by the Board President and shall become effective upon the last date of signature below.



Darlene R. Waite, President
Miami-Jacobs Career College

2/29/08

DATE



Janet K. Feldkamp, J.D.
Attorney for Miami-Jacobs Career College

3/4/08

DATE

Lisa Klenke, MBA, RN

LISA KLENKE, President
Ohio Board of Nursing

3-14-08

DATE



January 17, 2008

NOTICE OF OPPORTUNITY FOR HEARING

Miami-Jacobs Career College
Practical Nursing Program
Attention; Darlene R. Waite, MBA, President
110 North Patterson Blvd.
Dayton, Ohio 45402

Dear Ms. Waite:

In accordance with Chapter 119, Ohio Revised Code (hereinafter "ORC"), you are hereby notified that the Ohio Board of Nursing (hereinafter "Board") proposes under authority of Section 4723.06(A)(6), ORC, to withdraw conditional approval and deny full approval status to Miami-Jacobs Career College Practical Nursing Program ("Program") for the following reasons:

1. On or about September 18-19, 2007, the Board conducted an announced survey visit of the Program to review whether the Program was meeting and maintaining the standards for education programs established in Chapter 4723-5, Ohio Administrative Code (OAC), in accordance with Rule 4723-5-06(A)(4), OAC. On or about October 13, 2007, the Board sent the Program a Survey Visit Report identifying multiple standards not met and maintained. On December 17, 2007, the Board received documentation in response to the Survey Visit from the Program (Response). On January 17-18, 2008, the Board met and, having considered the Survey Report and the Program's Response, has determined that the following standards established in Chapter 4723-5, OAC, have not been met or maintained:
 - a. Despite being required by Rule 4723-5-09(A)(2)(a), OAC, the Program has not implemented a plan of organization and administration that clearly delineates the lines of authority, responsibility, and channels of communication within the program that provides for: (a) Faculty and student involvement in determining academic and program policies and procedures, curriculum planning, and evaluation;
 - b. Despite being required by Rule 4723-5-09(B), OAC, from on or about June 18, 2007 to on or about December 3, 2007, the Program was not

administered by a registered nurse administrator who meets the qualifications set forth in Rule 4723-5-11, OAC for a practical nursing education program;

- c. On or about June 18, 2007, the Program's registered nurse administrator, Donna Smith, vacated the position. Despite being required by Rule 4723-5-09 (D), the controlling agency of the Program did not ensure continuity of the administrative responsibilities for the Program from on or about June 18, 2007 to on or about December 3, 2007, during which time the Program did not provide the Board the name and curriculum vitae of a registered nurse designated to replace the program administrator or serve as an interim administrator who met the minimum qualifications set forth in Rules 4723-5-09 (D) and 4723-5-11(A)(1)(b), OAC;
- d. Despite being required by Rule 4723-5-09(B)(4), OAC, the Program did not have and did not implement an orientation process for new faculty;
- e. Despite being required by Rule 4723-5-09(B)(9), OAC, the Program did not certify to the Board, in a format prescribed by the Board, for each student who is an applicant for licensure in Ohio that each applicant successfully completed the requirements of a program and the date the applicant completed the program requirements;
- f. Rule 4723-5-14(C)(2), OAC, requires that a practical nursing program include curriculum content that includes courses or content in three major areas, that may be integrated, combined, or presented as separate courses. The three major areas include: *** (c) Basic nursing art and science related to nursing practice in a variety of structured settings, with a curriculum of courses and clinical experiences sufficient to prepare the graduate to safely deliver nursing care across the life span and to function within the defined scope of practice for a licensed practical nurse. Rule 4723-5-14(C)(5), OAC, requires that a practical nursing program shall include clinical and laboratory experiences that shall: (a) Meet the established course objectives or outcomes; (b) Provide a nursing student with the opportunity to practice cognitive, psychomotor, and affective skills in the performance of a variety of basic nursing functions with individuals or groups across the life span; and (c) Be provided concurrently with the related theory instruction. Rule 4723-5-20 (B), OAC, requires that supervision of a nursing student shall be provided for each clinical experience involving the delivery of nursing care to an individual or group of individuals. This supervision shall be provided only by a faculty member, teaching assistant, or preceptor who meets the qualifications set forth in Rule 4723-5-11, OAC, for a practical nursing program. Despite these Rules, the Program failed to implement the curriculum as written as the only

clinical experiences provided by the Program to students, which are supervised by a faculty member, teaching assistant or preceptor who meets the qualifications set forth in Rule 4723-5-11, OAC, occur in long-term care facilities;

- g. Rule 4723-5-15, OAC, requires that the administrator of a practical nursing program establish a written systematic plan of evaluation that includes data collected from faculty, instructional personnel, nursing students, graduates and employers of graduates, which includes all of the components set forth in Rule 4723-5-15(A)(1)-(11), OAC; Rule 4723-5-15(B), OAC, requires that the results of the evaluation of each aspect of the program as set forth in paragraph (A) of Rule 4723-5-15 be summarized and documented; and Rule 4723-5-15(C), OAC, requires that documentation demonstrate the results of the evaluation of each aspect of the program as set forth in paragraph (A) of Rule 4723-5-15 as having been used to plan and implement changes in the program. Despite Rules 4723-5-15(A), (B), and (C), OAC, the Program has not established a written systematic plan of evaluation as required by these rules.

Section 4723.06(A)(6), ORC, requires that, for a prelicensure nursing education program that has been granted conditional approval by the Board, at the Board's first meeting after the first class has completed the program, the Board shall determine whether to grant full approval to the program. If the Board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under Section 4723.07 of the Revised Code, the Board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on the results of the adjudication, the Board may continue or withdraw conditional approval, or grant full approval.

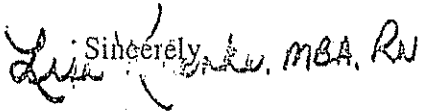
Accordingly, the Board is authorized to propose to deny full approval and withdraw conditional approval of the Program based upon its failure to meet and maintain the standards established in rules adopted under Section 4723.07, ORC.

In accordance with Chapter 119, ORC, you are hereby informed that the Program is entitled to a hearing in this matter. If the Program wishes to request such hearing, the request must be made in writing and must be received in the Board office within thirty (30) days of the time of mailing of this notice.

You are hereby further informed that, if the Program timely requests a hearing, Section 119.07, ORC, states that "at the hearing [the Program] may appear in person, by its attorney, or by such other representative as is permitted to practice before the [Board], or may present [its] position, arguments, or contentions in writing." At the hearing the Program may also present evidence and examine witnesses appearing for and against the Program.

Should you choose to request a hearing, please mail or deliver the request, in addition to any other correspondence regarding this matter, to **Lisa Ferguson-Ramos, Compliance Unit Manager, Ohio Board of Nursing, 17 South High Street, Suite 400, Columbus OH 43215-7410.**

If the Board fails to receive a request for a hearing within thirty (30) days of the time of mailing of this notice, the Board may, in the Program's absence and upon consideration of the factual and legal allegations set forth in this Notice of Opportunity for Hearing, continue or withdraw conditional approval, or grant full approval.

Sincerely,
 Lisa Klenke, MBA, RN

 Lisa Klenke, MBA, RN, CNAA, President

Certified Mail Receipt No. 7007 1490 0004 7917 3364

cc: Leah O'Carroll, Assistant Attorney General