Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
P.O. Box 980818, West Sacramento, CA 95798-0818
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: Orilynn Giron-Roxas
Mila Josue
Serafin San Jose Perez
Marcio Roxas
Leticia Perez
American College of Nursing
1855 Gateway Boulevard, Suite 180
Concord, CA 94520

INSTITUTION CODE: 18431210
CITATION NUMBER: 1516047
CITATION ISSUANCE/SERVICE DATE: December 4, 2015
DUE DATE: January 3, 2016
FINE AMOUNT: $ 4,752.00
ORDER OF ABATEMENT INCLUDED: YES

Elainea Shotwell issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Enforcement Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to Orilynn Giron-Roxas, Mila Josue, Serafin San Jose Perez, Marcio Roxas and Leticia Perez, Owners of American College of Nursing, 1855 Gateway Boulevard, Suite 180, Concord, CA 94520, pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violations described below.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	**Violation:** CEC 94907 – Mandatory Internal Dispute Resolution Prohibited *"An enrollment agreement shall not contain a provision that requires a student to invoke an internal institutional dispute procedure before enforcing any contractual or other legal rights or remedies"* CEC 94897(m) - Prohibited Business Practices *"An institution shall not do any of the following:* *(m) Direct any individual to perform an act that violates this chapter, to refrain from reporting unlawful conduct to the bureau or another government agency, or to engage in any unfair act to persuade a student not to complain to the bureau or another government agency."*

During the unannounced compliance inspection on January 30, 2015, it was noted that the institution's grievance procedure published in its 2014-2015 catalog indicated that students "must" partake in an internal resolution process before contacting an outside agency. On January 30, 2015, a Notice to Comply (NTC) was issued for violation of CEC 94907. On March 3, 2015, the institution responded to the NTC by replacing the term "**must**" with the term "**may**" in this section of the catalog. Current verbiage reads, "*Aggrieved student **may** first request a conference with the faculty or staff member concerned. If the student is not satisfied with the outcome of the conference, the student must write a Letter of Grievance. The letter must clearly state the grievance and why the student feels the outcome is not satisfactory.*" This condition is in violation of CEC 94907 & CEC 94987(m) in that a student having a grievance must still write a letter of grievance before seeking other remedies such as contacting the Bureau.

Order of Abatement:
The Bureau orders the Institution to modify its grievance policy to clearly indicate that student may, at any time or under any conditions, refer complaints, grievances, or questions to the Bureau. The institution shall submit to the Bureau a copy of the catalog page demonstrating the change in compliance with CEC 94907 & CEC 94897(m).

Assessment of Fine
The fine for this violation is $1000.00

2. **Violation:**
CEC 94911(j)(1)(2)– Minimum Requirements for Enrollment Agreements
"An enrollment agreement shall include, at a minimum, all of the following:
(j) The following statements:
"(1) Any questions a student may have regarding this enrollment agreement that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (Zip Code), (Internet Web site address), (telephone and fax numbers)."
"(2) A student or any member of the public may file a complaint about this institution with the Bureau for Postsecondary Education by calling (toll-free telephone number) or by completing a complaint form, which can be obtained on the Bureau's Internet Web site (Internet Web site address)."

During the unannounced compliance inspection on January 30, 2015, it was noted that enrollment agreements for three of the approved programs; CPR Health Provider, IV Therapy and Blood Withdrawal, and Introduction to Anatomy and Physiology, did not contain verbatim required language as stated above. On March 3, 2015, the institution responded to the NTC by providing corrected enrollment agreements for all three programs. The enrollment agreements still do not contain the statements verbatim required by CEC 94911 (j)(1) & (2). In all three cases, the Bureau's address is missing.

Order of Abatement:
The Bureau orders the Institution to submit corrected enrollment agreements for its CPR Health Provider, IV Therapy and Blood Withdrawal, and Introduction to Anatomy and Physiology programs to include the verbatim required language required by CEC 94911(j)(1) (2), to include the following information: The Bureau for Private Postsecondary Education's address (P.O. Box 980818, West Sacramento, CA 95798-0818), Internet Web site address (www.bppe.ca.gov), local telephone number (916-431-6959), toll-free telephone number (888-370-7589) and fax number (916-263-1897).

	Assessment of Fine The fine for this violation is $150.00
3.	**Violation:** 5, CCR 71721(b)(2) – Faculty *"(b)(2) Each instructor shall maintain their knowledge by completing continuing education courses in his or her subject area, classroom management or other courses related to teaching."* During the unannounced compliance inspection on January 30, 2015, Bureau staff conducted a random inspection of faculty files. A file belonging to a Vocational Nursing program instructor (B.B.) and another belonging to Psychiatric Technician program instructor (J.W) were inspected. Neither file contained evidence of completed continuing education. On January 30, 2015, a NTC was issued to the institution for failure to maintain information documenting that their instructors have completed continuing education courses in their subject area, classroom management or other courses related to teaching. On March 3, 2015, the institution responded to the NTC. The response included the submission of a *Faculty Records* policy and procedure, dated February 25, 2015, that addresses the maintenance of documents to include professional development and continuing education requirements. **Order of Abatement:** The Bureau orders the Institution to demonstrate compliance with 5, CCR 71721(b)(2) and its Faculty Records policy by submitting all proof of continuing education completed by faculty between March 1, 2015 and October 31, 2015, to demonstrate compliance with 5, CCR 71721(b)(2). The institution must ensure that all faculty files contain the required documents and ensure that instructors maintain their knowledge by completing continuing education courses in their subject area, classroom management or other courses related to teaching. **Assessment of Fine** The fine for this violation is $0.00
4.	**Violation:** 5, CCR 71920(a)(b)(1)(A) – Student Records *"(a)The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service. (b) In addition to the requirements of Section 94900, the file shall contain all of the following pertinent student records:* *(1)Written records and transcripts of any formal education or training, testing, or experience that are relevant to the student's qualifications for admission to the institution or the institution's award of credit or acceptance of transfer credits including the following: (A) Verification of high school completion or equivalency or other documentation establishing the student's ability to do college level work, such as successful completion of an ability-to-benefit test"* 5, CCR 71770(a)(1) – Admissions Standards and Transferred Credits Policy *"(a) The institution shall establish specific written standards for student admission for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program. In addition to any specific standards for an educational program, the admissions standards must specify that:* *(1) Each student admitted to an undergraduate degree program, or a diploma program, shall possess a high school diploma or its equivalent, or otherwise successfully take and pass the relevant*

	examination as required by section 94904 of the Code." During the Compliance Inspection on January 30, 2015, Bureau staff conducted a random inspection of student files. Of two student files reviewed, neither file contained verification of high school completion or equivalency, or evidence of an ability-to-benefit test result. The institution's response to the NTC violation included the submission of a *Records Maintenance of Enrolled and Graduate Students* policy and procedure, dated February 25, 2015. **Order of Abatement:** The Bureau orders the Institution to submit proof of high school completion or equivalent, or proof of ability-to-benefit test results, for all students enrolled between March 1, 2015 and October 31, 2015, to demonstrate compliance with 5, CCR 71920(a)(b)(1)(A), the institution's Records Maintenance of Enrolled Students policy, and 5, CCR 71770(a)(1), ensuring that the institution is following admissions policy. **Assessment of Fine** The fine for this violation is $100.00
5.	**Violation:** 5, CCR 71920(a)(b)(5)(A)(B)(C)(D)(E) – Student Records *"(a)The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service. (b) In addition to the requirements of Section 94900, the file shall contain all of the following pertinent student records:* *(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing all of the following:* *(A) The courses or other educational programs that were completed, or were attempted but not completed, and the dates of completion or withdrawal; (B) Credit awarded for prior experiential learning, including the course title for which credit was awarded and the amount of credit; (C) Credit for courses earned at other institutions; (D) Credit based on any examination of academic ability or educational achievement used for admission or college placement purposes; (E) The name, address, website address, and telephone number of the institution."* During the Compliance Inspection on January 30, 2015, Bureau staff conducted a random inspection of student graduate files. Of the files reviewed, none contained a transcript from the institution reflecting the requirements of 5, CCR 71920 (a)(b)(5)(A-E). The institution's response to the NTC violation included the submission of a *Records Maintenance of Enrolled and Graduate Students* policy and procedure, dated February 25, 2015. **Order of Abatement:** The Bureau orders the Institution to submit copies of transcripts for students who graduated or withdrew from the institution between March 1, 2015 and October 31, 2015. Submitted transcripts must demonstrate compliance with 5, CCR 71920 (a)(b)(5)(A)(B)(C)(D)(E). **Assessment of Fine** The fine for this violation is $1,001.00
6.	**Violation:** 5, CCR 71920(a)(b)(9) – Student Records

	"(a)The institution shall maintain a file for each student who enrolls in the institution whether or not the student completes the educational service. (b) In addition to the requirements of Section 94900, the file shall contain all of the following pertinent student records: *(9)A document showing the total amount of money received from or on behalf of the student and the date or dates on which the money was received;"* During the Compliance Inspection on January 30, 2015, Bureau staff conducted a random inspection of student files. With the exception of one file for a withdrawn student, no other files inspected contained a ledger or document as required by 5, CCR 71920(a)(b)(9). The institution's response to the NTC violation included the submission of a *Records Maintenance of Enrolled and Graduate Students* policy and procedure, dated February 25, 2015. **Order of Abatement:** The Bureau orders the Institution to submit copies of ledgers or comparable documents for all students who enrolled at the institution between March 1, 2015 and October 31, 2015 in accordance with 5, CCR 71920(a)(b)(9). **Assessment of Fine** The fine for this violation is $2,501.00
	TOTAL ADMINISTRATIVE FINE DUE: $4, 752.00

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5 CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$4,752.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5 CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

BACKGROUND

An unannounced compliance inspection was conducted on January 30, 2015, at American College of Nursing (Institution), Institution Code 18431210. The institution was issued a Notice to Comply #CU 18431210 0115 (NTC) on January 30, 2015, as a result of 23 minor violations detected during the desk review and on-site compliance inspection. The institution was provided 30 days from the date of the inspection to either remedy the violations or submit a written notice of disagreement. On March 3, 2015, the institution provided a response to the 23 violations listed on the NTC. The responses provided by the institution cleared 17 of the violations, however; 6 violations were not remedied.

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **January 3, 2016**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **December 4, 2015.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **January 3, 2016**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Jody Wright, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Jody Wright, Enforcement Analyst, at 916-431-6940 or Jody.Wright@dca.ca.gov.

December 4, 2015

Elainea Shotwell
Enforcement Manager

Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First Class Mail