

BEFORE THE ALABAMA BOARD OF NURSING

IN THE MATTER OF:	)	PETITION FOR
	)	DECLARATORY RULING
STILLMAN COLLEGE,	)	
NCLEX® PROGRAM CODE: 78-550	)	
	)	
Petitioner.	)	

DECLARATORY RULING

COMES NOW the Alabama Board of Nursing (ABN), by and through its Executive Officer, N. Genell Lee, MSN, RN, JD, and issues the following ruling:

REQUEST PRESENTED

Stillman College ("Stillman" or "the College") makes the following requests:

1. "that the senior and junior classes [of Stillman BSN students], consisting of 46 students, be allowed to complete their nursing course work at the College, also referred to as being "taught out" at the College"; and
2. "[p]rovided that they satisfy their graduation requirements and other applicable Board requirements, these 46 students be granted special permission to sit for the NCLEX-RN® exam following completion of their coursework and graduation from the College."

PROCEDURAL HISTORY

1. On March 17, 2011, the ABN issued a Findings of Fact, Conclusions of Law, and Order of the Alabama Board of Nursing, pursuant to which the ABN ordered that it would maintain provisional approval of Stillman's BSN Program for a period extending until thirty (30) days after the ABN's receipt of NCLEX-RN® results for Stillman's graduates taking the test for the first time in FY 2011, up to and including June 30, 2011. At that time, if those Stillman graduate first-time test-takers failed to meet or exceed the 80% passage threshold set by the ABN, approval of the Stillman BSN Program would be withdrawn. If the first time graduate testers met or exceeded the 80% passage threshold, and the program was otherwise in compliance with Board regulations, the ABN would automatically extend Stillman's approval. The ABN's Order was occasioned by Stillman's failure to meet the ABN's outcome standard which requires that graduates of ABN-approved nursing programs, "as a composite of first time writers, shall achieve no less than an eighty percent (80%) pass rate on a board selected national licensure exam." Alabama Board of Nursing Administrative Code § 610-X-3-.05(3) (effective December 28, 2010) (formerly § 610-X-3-.04(2)). Stillman appealed the ABN's Order to the Montgomery County Circuit Court, which affirmed the ABN's decision by Order of July 19, 2011.

2. On July 15, 2011, the ABN received the NCLEX-RN® results for Stillman graduates taking the NCLEX-RN® for the first time in FY 2011 up to and including June 30, 2011. The passage rate for these students was 28%, which was below the 80% passage threshold.

Accordingly, pursuant to the ABN's March 17, 2011, Order, ABN approval of Stillman's BSN Program was withdrawn as of August 15, 2011.<sup>1</sup>

3. On August 5, 2011, Stillman filed with the ABN a Request for Declaratory Ruling Concerning Closure of Stillman College's BSN Program. In this Request, Stillman advised the ABN that "[a]s of July 28, 2011, Dr. Ernest McNealey, the College's President, shut down the College's Nursing Program so that no new students can enter the program." Stillman's Request for Declaratory Ruling seeks a ruling from the ABN that Stillman may "teach out" the remaining 26 students from the rising senior class and 20 students from the rising junior class, and that the ABN permit those 46 students, upon graduation, to sit for the NCLEX-RN®.

### JURISDICTION

Pursuant to Section 41-22-11 of the Code of Alabama (1975), the Alabama Board of Nursing has jurisdiction to issue declaratory rulings with respect to the validity of a rule, with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it, or with respect to the meaning and scope of any order of the agency, if a written petition for declaratory ruling is filed by a person who states with specificity the reason why the person is substantially affected by the rule at issue. See also Alabama Board of Nursing Administrative Code § 610-X-1-.09. Stillman College is substantially affected by the ABN's March 17, 2011, Order; thus, the ABN has jurisdiction to consider Stillman's Request for Declaratory Ruling.

### RULING

Having considered the facts and the arguments of Stillman College representatives, the Alabama Board of Nursing hereby rules as follows:

1. Stillman's request to allow the rising junior students enrolled in the Stillman BSN nursing program to complete their nursing coursework at Stillman and upon graduation to allow them to sit for NCLEX-RN® is hereby **DENIED**. Stillman is encouraged to facilitate the transfer of junior students to other programs.
2. Stillman's request to allow the rising senior students to complete their coursework at Stillman is hereby **GRANTED** based on the following conditions: (1) Rising senior students are successful in all coursework while enrolled in Stillman's BSN program, and (2) Senior students graduate no later than May 2012. Those May 2012 graduates of the Stillman College BSN program may apply for licensure in Alabama.

**DONE** and **ORDERED** on this the 18<sup>th</sup> day of August, 2011.

ALABAMA BOARD OF NURSING



N. Genell Lee, RN, MSN, JD  
Executive Officer

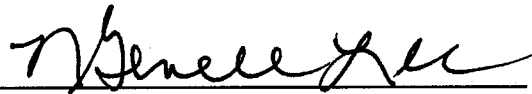
<sup>1</sup> Pursuant to Rule 62 of the Alabama Rules of Civil Procedure, this closure of the program was not enforced until August 18, 2011, which was 30 days following entry of the Circuit Court judgment affirming the ABN's decision.

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on the 19<sup>th</sup> day of August, 2011, a true and correct copy of the foregoing Board Ruling was served by forwarding the same by United States certified mail, postage prepaid, and addressed as follows:

James A. Patton, Jr., Esq.  
Attorney for Petitioner  
Ogletree, Deakins, Nash, Smoak, &  
Stewart  
1819 Fifth Avenue North, Suite 1000  
One Federal Place  
Birmingham, Alabama 35203-2118

**ALABAMA BOARD OF NURSING**



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**N. GENELL LEE, RN, MSN, JD  
EXECUTIVE OFFICER**

ADDRESS OF COUNSEL:

Alice Maples Henley  
General Counsel  
Alabama Board of Nursing  
Post Office Box 303900  
Montgomery, Alabama 36130-3900  
334-293-5226 (Telephone)  
334-293-5201 (Facsimile)