

BEFORE THE ALABAMA BOARD OF NURSING

IN THE MATTER OF)
)
) **PETITION FOR**
 YVONNE KENNEDY, Ph. D., PRESIDENT) **DECLARATORY RULING**
 BISHOP STATE COMMUNITY COLLEGE
 Petitioner.)
)

ORDER

Comes now the Alabama Board of Nursing, by and through its Executive Officer, N. Genell Lee, RN, MSN, JD, and issues the following ruling:

FINDINGS OF FACT

1. On January 16, 2007, pursuant to *Alabama Board of Nursing Administrative Code*, § 610-X-1-.09, the President of Bishop State Community College, Dr. Yvonne Kennedy, filed a petition for declaratory ruling from the Alabama Board of Nursing. This request was sought for clarification of the nursing education program rules and an existing Board Order.
2. On November 21, 2003, the Alabama Board of Nursing issued an Order that suspended the nursing license of Michael Williams, an instructor at Bishop State Community College. Said action was stayed by the Circuit Court of Montgomery County, Alabama. Following a lengthy appeal, the Alabama Board of Nursing's Order was upheld by the Alabama Supreme Court and Williams' suspension began on May 12, 2006. On August 21, 2006, Williams' license was reinstated on a probationary status for twenty-four (24) months.
3. The January 16, 2007 petition submitted to the Alabama Board of Nursing requested a declaratory ruling with respect to the applicability of the following rules.
 - a. Does the Board consider a nurse whose license has been placed on probation, as that term is defined in *Ala. Admin. Code* §610-X-2-.08(5) to have an encumbered nursing license under *Ala. Admin. Code* § 610-X-3-.02(6)(a)?
 - b. Given *Ala. Admin Code* § 610-X-3-.02(6)(a), can a nurse whose nursing license is currently on probation teach in Bishop State's Nursing Program during the probationary period?
 - c. What consequences if any will Bishop State suffer if it allows Dr. Williams to remain on the faculty in its nursing program during the probationary period?

CONCLUSIONS OF LAW

1. The Alabama Board of Nursing has the authority to issue this declaratory ruling pursuant to *Alabama Board of Nursing Administrative Code*, §610-X-1-.09.
2. The Alabama Board of Nursing has jurisdiction over Bishop State Community College Nursing Program pursuant to *Code of Alabama* § 34-21-2(c)(2), 1975.
3. Bishop State Community College is substantially affected by *Alabama Board of Nursing Administrative Code*, § 610-X-3-.02(6)(a), which provides that the minimum qualifications of nursing program faculty shall include: an unencumbered Alabama registered nurse license.

4. Bishop State Community College is substantially affected by *Alabama Board of Nursing Administrative Code* § 610-X-3-.02(6)(a) as Alabama nursing programs may be cited for deficiencies in compliance with the *Administrative Code* .§ 610-X-3-.05(2).

RULING

The Alabama Board of Nursing has the authority, pursuant to *Alabama Board of Nursing Administrative Code* 610- X-1-.09 to issue a declaratory ruling with respect to the validity of a rule upon receipt of a petition with respect to the applicability of the rule to any person or particular fact situation.

The Petition for a Declaratory Ruling is hereby granted as to clarification of the rules as follows:

- a. The Alabama Board of Nursing has defined probation as the “monitored practice of nursing which permits the nurse to continue to practice nursing pursuant to specified conditions as set forth by the Board.” A nurse whose license is on probation is deemed to have an encumbered license.
- b. Pursuant to 610-X-3-.02(5)(a) and 610 –X-3-.02 (6)(a) nursing faculty may not have an encumbered Alabama registered nurse license.
- c. Bishop State may be cited for deficiencies for having nursing faculty with an encumbered license, up to and including withdrawal of approval of the program.

DONE and **ORDERED** this the 19th day of January 2007.
ALABAMA BOARD OF NURSING

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