



Ohio Board of Nursing

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

I certify that the attached records are a true copy of Ohio Board of Nursing disciplinary records.

Betsy J. Houchen

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





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**CONSENT AGREEMENT
BETWEEN
FELBRY SCHOOL OF NURSING PRACTICAL NURSING
PROGRAM
AND
OHIO BOARD OF NURSING**

This Consent Agreement is entered into by and between **FELBRY SCHOOL OF NURSING PRACTICAL NURSING PROGRAM (FELBRY)** 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.

For purposes of this Agreement, "Consent Agreement" shall be defined as this Agreement, and the following records attached hereto and incorporated herein:

- Notice of Opportunity for Hearing, dated March 17, 2016 (March 2016 Notice)
- Addendum Consent Agreement, dated March 19, 2010 (March 2010 Addendum Consent Agreement)
- Consent Agreement, dated September 25, 2009 (September 2009 Consent Agreement)

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.

FELBRY 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.

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)(7), ORC, provides that, for a nursing education program that has been placed on provisional approval for a period of time by the Board, prior to or at the end of the period, the Board shall determine whether to grant full approval to the program. The Board shall reconsider whether the program meets the standards and shall grant full approval if it does. If the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the Board may withdraw approval pursuant to an adjudication under Chapter 119. of the Revised Code. 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. **FELBRY** currently operates a practical nursing program located in Columbus, Ohio. The controlling agency for **FELBRY** is “Felbry College LLC” a domestic limited liability company. **Tiya Kifle, M.S.N., R.N., Program Administrator (Program Administrator)** has the authority, accountability, and responsibility for all aspects of the program, as provided in Rule 4723-5-09, OAC. Dr. Felix Tolani, president of Felbry College LLC, is authorized to enter into this Consent Agreement on behalf of **FELBRY** and its controlling agency.
- C. **FELBRY** was initially granted conditional approval to operate a practical nursing program by the Board effective July 21, 2008. That conditional approval was extended in the September 2009 Consent Agreement, and again in the March 2010 Addendum Consent Agreement. The Program was granted full approval in March 2011. Effective March 12, 2015, the Program was placed on provisional approval until March 17, 2017, in part due to low NCLEX scores, pursuant to Section 4723.06(A)(7), ORC, and Rule 4723-5-23, OAC.
- D. **FELBRY** acknowledges that pursuant to Section 4723.06(A)(7), ORC, and Rule 4723-5-23, OAC, for the Board to consider restoring a program to full approval status after the program has been placed on provisional status due to low NCLEX scores, the program shall attain a pass rate that meets or exceeds ninety-five per cent of the national average for first-time candidates for at least two consecutive years.
- E. **FELBRY** knowingly and voluntarily admits the factual and legal allegations set forth in the March 2016 Notice.

- F. **FELBRY** agrees to correct the deficiencies identified in the March 2016 Notice, so that its current provisional approval status may be continued and its student enrollment not be adversely affected.
- G. **FELBRY** agrees that the Board is authorized under law to enter this Consent Agreement with **FELBRY**, in lieu of a hearing under Chapter 119., ORC, in order to continue its current provisional 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, **FELBRY** knowingly and voluntarily agrees with the Board to the following terms, conditions, and limitations: **FELBRY's** provisional approval status is hereby continued until March 9, 2017, at which time **FELBRY's** provisional approval status will be reviewed by the Board pursuant to Section 4723.06(A)(6), ORC, subject to the following terms and conditions:

1. **FELBRY** shall not expand its practical nursing program to any other locations prior to March 9, 2017.
2. **FELBRY** 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, Ohio 43215-7410.
3. **FELBRY** shall verify, within ten days of submission, that the reports and documentation required by this Consent Agreement are received in the Board office.
4. In addition to the requirements set forth in Rule 4723-5-09, OAC, **FELBRY** shall inform the Board within ten (10) business days, in writing, of any change in its administrator.
5. At least one (1) survey visit of **FELBRY** will be conducted, in accordance with Rule 4723-5-06, OAC, prior to the Board's consideration at the March 2017 Board meeting of **FELBRY's** provisional approval status, its compliance with the terms and conditions of this Consent Agreement, and whether **FELBRY** is meeting and maintaining the requirements of Chapter 4723-5, OAC. **FELBRY** acknowledges that representatives from the Board may conduct announced or unannounced survey visits, including, but not limited to, auditing student records, faculty and teaching assistant records, and contracts, to determine if **FELBRY** is complying with the terms and conditions of this Consent Agreement in addition to meeting and maintaining the requirements of

Chapter 4723-5, OAC. **FELBRY** agrees to cooperate with all survey visits and ensure that all materials are timely made available to the Board or its representative.

6. **By June 19, 2016, FELBRY** shall submit to the Board documentation demonstrating that all faculty members teaching nursing courses meet all of the minimum qualifications set forth in Rule 4723-5-11(A)(3), OAC. The documentation shall consist of a single chart that: lists every nursing course; provides the name of the faculty member teaching the course; confirms that each named faculty member has completed an approved registered nursing education program; confirms that each named faculty member has at least two years experience in the practice of nursing as a registered nurse; confirms that each named faculty member has a baccalaureate degree in nursing; and confirms that each named faculty member has current, valid licensure as a registered nurse in Ohio.
7. **FELBRY**, through its administrator, shall provide written progress reports to the Board on or before the following dates: **July 15, 2016; October 14, 2016; and December 16, 2016.** The progress reports shall address how **FELBRY** is meeting the terms and conditions of this Consent Agreement, in addition to complying with the requirements of Chapter 4723-5, OAC.
8. **By June 19, 2016, FELBRY** 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 **FELBRY's** provisional approval status is subject to the terms and conditions of this Consent Agreement, and that this Consent Agreement is available on the Board's website or will be provided by **FELBRY** upon the facility's request. **Within thirty (30) days of receiving Board approval of the notification, FELBRY** shall provide the notification to every facility. Further, **within thirty (30) days of providing the notification to every facility, FELBRY** 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, **FELBRY** has provided a complete copy of this Consent Agreement to the requestor.
9. **FELBRY** 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.
10. **By June 19, 2016, FELBRY** shall provide a copy of this Consent Agreement to all licensed nurses who are teaching nursing courses at **FELBRY** as faculty or as teaching assistants. **By July 15, 2016, FELBRY** shall submit

documentation to the Board signed by all licensed nurses who are teaching nursing courses at **FELBRY** as faculty or as teaching assistants to verify that they received a copy of this Consent Agreement. A typed roster will also be provided to the Board listing the names of each faculty member or teaching assistant who has signed the verification.

11. **FELBRY** is under a continuing duty to provide a copy of this Consent Agreement to any new faculty members or teaching assistants.
12. **By June 19, 2016, FELBRY** shall provide written notification to all students that a copy of this Consent Agreement is available upon request. Such notification shall be displayed in a prominent manner in a common area, such as a student bulletin board. Upon request from a student, **FELBRY** shall provide a copy of this Consent Agreement to the student. Further, **by JULY 15, 2016, FELBRY** shall submit documentation to the Board explaining how it provided written notification to all students and attesting that, when requested, **FELBRY** has provided a copy of this Consent Agreement.
13. **FELBRY** is under a continuing duty to provide written notification to all new students that a copy of this Consent Agreement is available upon request.
14. **FELBRY**, its administrator and its other employees or agents shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or documentation to the Board, to **FELBRY's** students or applicants for admission, or to facilities with whom **FELBRY** contracts for student clinical experiences.
15. In addition to the requirements set forth in this Consent Agreement, **FELBRY** shall comply with all of the requirements established in Chapter 4723., ORC, and Chapter 4723-5, OAC, for nursing education programs.

FAILURE TO COMPLY

FELBRY agrees that its compliance with the terms and conditions of this Consent Agreement and its compliance with the requirements established in Chapter 4723., ORC, and Chapter 4723-5, OAC, for nursing education programs, will be considered at the March 8-9, 2017 Board meeting, at which time the Board may continue or modify its provisional approval status consistent with Section 4723.06(A)(7), ORC, and Rule 4723-5-23, OAC, or propose to withdraw its approval status. If it appears that **FELBRY** has violated or breached any terms or conditions of the Consent Agreement or the requirements established in Chapter 4723., ORC, and Chapter 4723-5, OAC, for nursing education programs, prior to March 9, 2017, the Board may issue a Notice of Opportunity for Hearing and propose to withdraw **FELBRY's** 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 **FELBRY** and the Board.

ACKNOWLEDGMENTS/LIABILITY RELEASE

FELBRY 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.

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

FELBRY 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 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 Chapter 119, 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. **FELBRY** agrees that the Board is legally authorized under Section 4723.06(A)(6), ORC, to enter this Consent Agreement with **FELBRY**, 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.

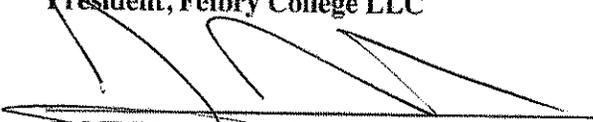
EFFECTIVE DATE

FELBRY 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.



DR. FELIX TOLANI
President, Felbry College LLC

5/10/2016
DATE



JAMES M. MCGOVERN, ESQ.
Attorney for Felbry School of Nursing
Practical Nursing Program
and Felbry College LLC

5/10/2016
DATE

Maryam W. Lyon MSN RN

MARYAM W. LYON, M.S.N., R.N.
President, Ohio Board of Nursing

5/19/16
DATE



Ohio Board of Nursing

www.nursing.ohio.gov

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

March 17, 2016

NOTICE OF OPPORTUNITY FOR HEARING

Tiya Kifle, R.N., M.S.N.
Program Administrator
Felbry School of Nursing Practical Nursing Program
6055 Cleveland Avenue
Columbus, Ohio 43231

Dear Ms. Kifle:

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)(7), ORC, to withdraw provisional approval and to deny full approval status to Felbry School of Nursing Practical Nursing Program ("Program") for the following reasons:

1. In July 2008, the Board granted the Program conditional approval. On September 25, 2009, the Board and the Program entered into a Consent Agreement that continued the Program's conditional approval status until the September 2010 Board meeting, *a copy of which is attached hereto and incorporated herein*, (September 2009 Consent Agreement). On March 19, 2010, the Board and the Program entered into an Addendum to the September 2009 Consent Agreement that continued the Program's conditional approval status to the March 2011 Board meeting, *a copy of which is attached hereto and incorporated herein*. Effective March 17, 2011, the Board granted the Program full approval for a period of two years. Effective March 12, 2015, the Board placed the Program on provisional approval until March 17, 2017, based on its NCLEX scores in accordance with Section 4723.06(A)(7), ORC, and Rule 4723-5-23(B)(4), Ohio Administrative Code (OAC), and, based on failure to meet and maintain the requirements established in Rules 4723-5-12(A)(3), and (A)(4); 4723-5-19(A)(2) and (A)(3), and 4723-5-21(D)(2) and (D)(3), OAC. Upon placing the Program on provisional approval, the Board required the Program to return its certificate of full approval and to submit periodic progress reports to the Board. On December 14-15, 2015, the Board conducted a survey visit to review whether the Program was meeting and maintaining the standards for education programs established in Chapter 4723-5, OAC, (December 2015 Survey Visit). On or about December 29, 2015, the Board sent the Program its Survey Visit Report identifying standards not met and

maintained (December 2015 SVR). The Program submitted its Response on or about January 29, 2016 (January 2016 Response). On March 17, 2016, the Board met and, having considered the December 2015 SVR and the January 2016 Response, has determined that the following standards established in Chapter 4723-5, OAC, have not been met or maintained:

- a. Despite the requirements of Rule 4723-5-11(A)(3), OAC, for minimum qualifications of faculty for a practical nursing program teaching a nursing course, the faculty teaching the course, "NUT 100 – Nutrition across the Lifespan (Nutrition across the Lifespan)" did not complete an approved registered nursing education program; did not have experience for at least two years in the practice of nursing as a registered nurse; did not have a baccalaureate degree in nursing; and did not have current, valid licensure as a registered nurse in Ohio. Nutrition across the Lifespan contained nursing objectives and outcomes, including: "[T]he student will be able to...[I]dentify the role of the nurse in assisting patients across the lifespan to meet their nutritional goals" and "The student will understand the nutritional assessment, the nursing plan, and their role in the nutritional needs of the patient." Furthermore, the course description contained in the course syllabus stated in part, "Application of the nursing process is integrated in the textbook and through the course." Despite the presence of nursing objectives and outcomes, the course was planned and taught by faculty who did not meet the minimum requirements of 4723-05-11(A)(3).

Rule 4723-5-11(A), OAC, provides that the minimum qualifications and academic preparation for faculty for a practical nursing education program are as follows: (3) For faculty teaching a nursing course: (a) Completion of an approved registered nursing education program in a jurisdiction as defined in paragraph (P) of Rule 4723-5-01 of the Administrative Code; (b) Experience for at least two years in the practice of nursing as a registered nurse; (c) A baccalaureate degree in nursing; and (d) Current, valid licensure as a registered nurse in Ohio. Rule 4723-5-01(J), OAC, provides that "Course objectives or outcomes" means the cognitive, psychomotor, or affective knowledge and skills to be learned by the nursing student upon completion of a course. Rule 4723-5-01(N), OAC, provides that "Faculty" means a registered nurse who meets the faculty requirements set forth in Rule 4723-5-11, OAC, for a practical nursing education program, and that faculty: (1) Plan and teach all courses containing nursing objectives, or direct the teaching of those courses provided by teaching assistants; (2) Report to the program administrator or associate administrator; and (3) Contribute to the evaluation and implementation of, or changes in program curriculum.

Section 4723.06(A)(7), ORC, provides that, for a nursing education program that has been placed on provisional approval for a period of time by the Board, prior to or at the end of the period, the Board shall determine whether to grant full approval to the program. The Board shall reconsider whether the program meets the standards and shall grant full approval if it

does. If the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the Board may withdraw approval pursuant to an adjudication under Chapter 119. of the Revised Code.

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

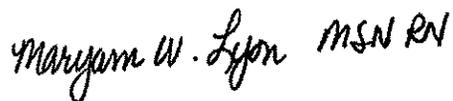
In accordance with Chapter 119, ORC, you are hereby informed that the Program is entitled to a hearing in this matter. If the Program wishes to request such hearing, the request must be made in writing and must be received in the Board office within thirty (30) days of the time of mailing of this notice.

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: **Hearing Requests/Compliance Unit, 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, withdraw provisional approval and deny full approval status.

Sincerely,



Maryam W. Lyon, M.S.N., R.N.
President, Ohio Board of Nursing

Certified Mail Receipt No. 7015 3010 0001 6962 0711

cc: Henry G. Appel, Principal Assistant Attorney General



**ADDENDUM
BETWEEN
FELBRY COLLEGE SCHOOL OF PRACTICAL NURSING
PROGRAM
AND
OHIO BOARD OF NURSING**

This Addendum to the Consent Agreement is entered into by and between **FELBRY COLLEGE SCHOOL OF PRACTICAL NURSING PROGRAM (FELBRY)** 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.

FELBRY voluntarily enters into this Addendum to the 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.

BASIS FOR ACTION

This Addendum to the 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 4723.07(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. **FELBRY** entered into a Consent Agreement with the Board, effective September 25, 2009 (September 2009 Consent

FELBRY COLLEGE SCHOOL OF PRACTICAL NURSING PROGRAM

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Agreement), a copy of which is attached hereto and incorporated herein.

- C. Dr. Olugbenga F. Tolani, authorized representative of Felbry College LLC (dba "Felbry College School of Practical Nursing Program") (**FELBRY**), is legally authorized to enter into this Addendum to the September 2009 Consent Agreement on behalf of **FELBRY**.
- D. On November 23, 2009, the Board conducted an unannounced survey visit in accordance with Rule 4723-5-06, OAC and Item 12 of the September 2009 Consent Agreement. On December 14, 2009, the Board sent **FELBRY** a Survey Visit Report identifying the standards not met and maintained. On February 16, 2010, the Board received documentation from **FELBRY** in response to the Survey Visit Report (February 2010 Response).
- E. Item 12. of the September 2009 Consent Agreement requires that, "In addition to the requirements set forth in this Agreement, **FELBRY** shall comply with all of the requirements established in Chapter 4723., ORC, and Chapter 4723-5, OAC, for nursing education programs." Despite this, **FELBRY** knowingly and voluntarily admits that it failed to meet and maintain the following requirements set forth in Chapter 4723-5, OAC:
- (1) Rule 4723-5-12, OAC, requires that "(A) The administrator of the program and faculty shall establish and implement written policies for the following: (5) Requirements for completion of the program; and (6) Payment of fees; expenses, and refunds associated with the program." Regarding the first cohort of students admitted in September 2008, **FELBRY** did not implement the Program's written policies for requirements for completion of the Program and payment of fees, expenses, and refunds associated with the Program.
 - (2) Rule 4723-5-15, OAC, requires that: "A written systematic plan of evaluation shall be established by the administrator of the program and shall include data collected from faculty, instructional personnel, nursing students, graduates, and employers of graduates and shall: (A) Specify the responsibility, time frame, and procedure for evaluating each aspect of the program, including: (3) Program policies as set forth in rule 4723-5-12 of the Administrative Code." In or about October and November,

2009, **FELBRY** revised the written policies that had been provided to the first cohort of students, in or about September 2008, including, i.e., policies require by Rule 4723-5-12 (A)(5) (Requirements for completion of the program) and (A)(6) (Payment of fees; expenses, and refunds associated with the program). In revising these policies, **FELBRY** admits that the new policies, which imposed additional fees, and new requirements for graduation (including additional and different exit exams, with new passing score requirements, and a six-week remediation course) were applied to the first cohort of students, at the students' request and out of exigencies, and **FELBRY** acknowledges that the Board considers this a retroactive application of policies to students who had earlier completed an exit exam and participated in a graduation ceremony.

In addition, **FELBRY** admits that, although it maintains that an internal Curriculum and Academic Affairs Committee voted to adopt the new policies in the fall of 2009, among other things, **FELBRY** could not have based its policy revisions, as required by the Program's Systematic Plan of Evaluation, upon data collected from graduates and employers of graduates since this was the first cohort of students it was graduating.

- F. **FELBRY** agrees that the Board is authorized under law to enter into this Addendum to the September 2009 Consent Agreement with **FELBRY**, in lieu of holding an adjudication under Chapter 119, ORC.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, **FELBRY** knowingly and voluntarily agrees with the Board that **FELBRY's conditional approval status is hereby extended until March 17, 2011**, and **FELBRY** agrees to the following:

NEW TERMS, CONDITIONS, AND LIMITATIONS

1. **FELBRY** shall provide written notification to all students of all Program fees and Program completion requirements (including required exit exams and any passing score requirements), with effective dates. This notification shall be displayed in a prominent manner in a common area, such as a student bulletin board.

2. **FELBRY shall submit to the Board, not later than April 16, 2010,** the Program's Systematic Plan of Evaluation (Plan). The Plan shall include all elements required by Rule 4723-5-15, OAC, and shall include a chart depicting each element.
3. **FELBRY**, through its Program Administrator, shall provide written, quarterly reports to the Board regarding any committee or other meetings at which revisions to the Plan were discussed, and revisions that occurred, during the preceding quarter. **The reports are due on or before the following dates: June 19, 2010; September 19, 2010; December 19, 2010; February 28, 2011.**
4. **By April 19, 2010, FELBRY** shall provide a copy of this Addendum and the attached September 2009 Consent Agreement to all faculty members. **By May 3, 2010, FELBRY** shall submit documentation to the Board signed by each faculty member verifying that he or she has received a copy of this Addendum with its attachments.
5. In the event that **FELBRY** plans to implement a change of control, in addition to the requirements in Rule 4723-5-03, OAC, **FELBRY** shall provide a copy of this Addendum and the attached September 2009 Consent Agreement to the receiving agency and shall submit documentation to the Board attesting that **FELBRY** has provided a complete copy of this Addendum with attachments to the receiving agency.

AMENDED TERMS, CONDITIONS, AND LIMITATIONS

6. *The terms, conditions, and limitations contained in Item 5. of the September 2009 Consent Agreement are hereby stricken and replaced by the following: FELBRY*, through its Program Administrator, shall provide written progress reports to the Board on or before the following dates: **June 19, 2010; September 19, 2010; December 19, 2010; February 28, 2011.** The reports shall address how the Program is progressing in obtaining student clinical experience and otherwise meeting and maintaining the terms and conditions of the September 2009 Consent Agreement, this Addendum, and the requirements of Chapter 4723-5, OAC.
7. *The terms, conditions, and limitations contained in Item 7. of the September 2009 Consent Agreement are hereby stricken and replaced with the following: "Prior to the Board's consideration of FELBRY's* program approval status at the March 2011 Board meeting, **FELBRY** agrees that Board staff may conduct on-site reviews of the Program,

including conducting interviews with faculty and students, observing classroom or clinical experiences, and reviewing records, for purposes of determining the Program's compliance with the terms and conditions of this Addendum."

8. *The terms, conditions, and limitations contained in Agreed Conditions, page 3 of the September 2009 Consent Agreement are amended as follows: delete "September 24, 2010" and insert "March 18, 2011 2011".*

TERMS, CONDITIONS, AND LIMITATIONS STILL IN EFFECT

9. *The terms and conditions contained in Items 8, 9, 10, 11 and 12 of the September 2009 Consent Agreement remain effect.*

TERMS, CONDITIONS, AND LIMITATIONS NO LONGER IN EFFECT

10. *The terms and conditions contained in Items 1, 2, 3, 4, and 6 of the September 2009 Consent Agreement are no longer in effect because they have been satisfied.*

FAILURE TO COMPLY

FELBRY agrees that its conditional approval status will be considered at the March 2011 Board meeting, at which time the Board may grant or deny full approval status. If it appears that **FELBRY** has violated or breached any terms or conditions of this Addendum to the September 2009 Consent Agreement prior to the March 2011 Board meeting, the Board may issue a Notice of Opportunity for Hearing and propose to withdraw **FELBRY**'s 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 Addendum.

DURATION / MODIFICATION OF TERMS

The terms, limitations, and conditions of the September 2009 Consent Agreement and this Addendum may be modified or terminated, in writing, at any time upon the agreement of both **FELBRY** and the Board.

ACKNOWLEDGMENTS / LIABILITY RELEASE

With the exception of those provisions expressly modified by this Addendum, all of the terms and condition of the September 2009 Consent Agreement remain in full force and effect.

FELBRY COLLEGE SCHOOL OF PRACTICAL NURSING PROGRAM

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FELBRY acknowledges that it has had an opportunity to ask questions concerning the terms of this Addendum and that all questions asked have been answered in a satisfactory manner.

FELBRY waives all of its rights under Chapter 119, ORC, as they relate to matters that are the subject of this Addendum.

FELBRY 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 Addendum.

This Addendum 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 Addendum is not an adjudication order as discussed in Chapter 119, ORC. Any action initiated by the Board based on alleged violations of the September 2008 Consent Agreement and this Addendum shall comply with the Administrative Procedures Act, Chapter 119, ORC.

FELBRY agrees that the Board is legally authorized under Section 4723.06(A)(6), ORC, to enter this Addendum with FELBRY, in lieu of a holding an adjudication under Chapter 119, ORC, and waives any legal argument to the contrary.

EFFECTIVE DATE

FELBRY understands that this Addendum 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.



DR. OLUGBENGA F. TOLANI, Authorized
Representative, Felbry College LLC (dba
"FELBRY COLLEGE SCHOOL OF PRACTICAL
NURSING PROGRAM")

3/10/2010
DATE



DAVID LATANICK, Attorney for
FELBRY COLLEGE SCHOOL OF
PRACTICAL NURSING PROGRAM

3-10-10
DATE

Bertha M Lovelace BA, CRNA, RN ^{TMF}

3/19/10

BERTHA LOVELACE, President
Ohio Board of Nursing

DATE



Ohio Board of Nursing

www.nursing.ohio.gov

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

**CONSENT AGREEMENT
BETWEEN
FELBRY COLLEGE SCHOOL OF PRACTICAL NURSING
PROGRAM
AND
OHIO BOARD OF NURSING**

This Consent Agreement is entered into by and between **FELBRY COLLEGE SCHOOL OF PRACTICAL NURSING PROGRAM (FELBRY)** 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.

FELBRY 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

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. **FELBRY** was granted conditional approval by the Board effective July 21, 2008.
- C. **FELBRY** currently operates as a career program located in Columbus, Ohio. **FELBRY** is not yet accredited. **FELBRY** is the name under which "Felbry College LLC" does business in Ohio. Felbry College LLC was registered as a limited liability company in Ohio on April 27, 2007. Dr. Olugbenga F. Tolani is an authorized representative for Felbry College LLC.
- D. On July 7-8, 2009, Board staff conducted a survey visit of **FELBRY** in accordance with Rule 4723-5-06, OAC. On August 3, 2009, the Board sent a survey visit report (SVR) to **FELBRY** identifying requirements of Chapter 4723-5, OAC, that were not met and maintained. On or about August 24, 2009, **FELBRY** submitted a written response to the Board regarding the SVR.
- E. **FELBRY** agrees that it has not met or maintained the following requirements as set forth in the SVR, and agrees to correct these deficiencies, so that its conditional approval status may be continued and its student enrollment not be adversely affected:
 - (a) **FELBRY** appointed two faculty members to teach a nursing courses who did not meet minimum qualifications as set forth in Rule 4723-5-11, OAC.
 - (b) **FELBRY** appointed an existing faculty member to serve as program administrator who did not meet minimum

qualifications for the position set forth in Rule 4723-5-11, OAC.

- (c) The student admission policy, the policy concerning student guidance and counseling, and the policy for student grievance, which were all contained in the student handbook, were not implemented as written as required by Rule 4723-5-12 (A)(1), (8), and (9), OAC.
- (d) Students were not provided clinical experiences in care of surgical patients sufficient to meet course and clinical objectives of the Adult Health I course. Therefore, the curriculum was not implemented as written, as required by Rule 4723-5-14 (C)(3), OAC.
- (e) There was no evidence of utilization of the evaluation plan. No documentation was provided or found that demonstrated that the results of evaluation of each aspect of the program have been used to plan and implement changes in the program as required by Rule 4723-5-15 (B) and (C), OAC.
- (f) Of eight clinical agencies utilized for students' clinical instruction, the contract with Village at Westerville is not signed by the appropriate parties; and no current written agreement or contract was provided between the program and Community Pediatrics, although the facility was listed as a clinical site, as required by Rule 4723-5-17 (A), OAC.
- (g) The administrator did not develop or implement a records retention plan for faculty and teaching assistant records in accordance with Rule 4723-5-21 (D), OAC.

- F. **FELBRY** agrees that the Board is authorized under law to enter this Consent Agreement with **FELBRY**, 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, **FELBRY** knowingly and voluntarily agrees with the Board to the following terms, conditions, and limitations: **FELBRY's conditional approval status is hereby continued until September 24, 2010**, 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. **FELBRY** shall not expand its practical nursing program to any other locations prior to September 24, 2010.
2. **Within sixty (60) days following the effective date of this Consent Agreement, FELBRY** shall submit to the Board documentation demonstrating that all faculty members teaching nursing courses meet all of the minimum qualifications set forth in Rule 4723-5-11(A)(3), OAC.
3. **Within sixty (60) days following the effective date of this Consent Agreement, FELBRY** shall submit to the Board documentation demonstrating that it has appointed a program administrator who meets all of the minimum qualifications set forth in Rule 4723-5-11(A)(1), OAC.
4. **Within ninety (90) days following the effective date of this Consent Agreement, FELBRY** shall submit to the Board documentation that **FELBRY** is providing students with clinical experience in the supervised delivery of nursing care in Adult Health, including copies of all affiliation agreements with facilities securing clinical experiences for its students, in accordance with Rule 4723-05-17, OAC.
5. **FELBRY**, through its administrator, shall provide written progress reports to the Board on or before the following dates: **November 2, 2009; February 1, 2010; May 3, 2010; August 2, 2010.** 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, in addition to complying with the requirements of Chapter 4723-5, OAC.
6. **By October 15, 2009, FELBRY** 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 **FELBRY's** conditional approval status is subject to the terms and conditions of this Consent Agreement and that this Consent Agreement is available on the Board's website or will be provided by **FELBRY** upon the facility's request. **Within thirty (30) days of receiving Board approval of the notification, FELBRY** shall provide the notification to every facility. Further, **within thirty (30) days of providing the notification to every facility, FELBRY** 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, **FELBRY** has provided a complete copy of this Consent Agreement to the requestor.

7. A survey visit of **FELBRY** will be conducted, in accordance with Rule 4723-5-06, OAC, prior to the Board's consideration of **FELBRY**'s program approval status at the September 2010 Board meeting.
8. **FELBRY**, its administrator and its other employees or agents shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or documentation to the Board, to **FELBRY**'s students or applicants for admission, or to facilities with whom **FELBRY** contracts for student clinical experiences.
9. **FELBRY** 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.
10. **FELBRY** shall verify that the reports and documentation required by this Consent Agreement are received in the Board office.
11. In addition to the requirements set forth in Rule 4723-5-09 (D)(1), OAC, **FELBRY** shall inform the Board within ten (10) business days, in writing, of any change in its administrator.
12. In addition to the requirements set forth in this Agreement, **FELBRY** shall comply with all of the requirements established in Chapter 4723., ORC, and Chapter 4723-5, OAC, for nursing education programs.

FAILURE TO COMPLY

FELBRY agrees that its conditional approval status will be considered at the September 23-24, 2010 Board meeting, at which time the Board may grant or deny full approval status. If it appears that **FELBRY** has violated or breached any terms or conditions of the Consent Agreement prior to September 24, 2010, the Board may issue a Notice of Opportunity for Hearing and propose to withdraw **FELBRY**'s 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 **FELBRY** and the Board.

ACKNOWLEDGMENTS/LIABILITY RELEASE

FELBRY 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.

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

FELBRY 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 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 Chapter 119, 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. **FELBRY** agrees that the Board is legally authorized under Section 4723.06(A)(6), ORC, to enter this Consent Agreement with **FELBRY**, 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

FELBRY 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.



DR. OLUGBENGA F. TOLANI,
Authorized representative, Felbry College
LLC (dba "FELBRY COLLEGE SCHOOL
OF PRACTICAL NURSING PROGRAM")

09/10/2009
DATE

FELBRY COLLEGE SCHOOL OF PRACTICAL NURSING PROGRAM

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Lisa Klenke, MBA, RN

9.25.09

LISA KLENKE, President
Ohio Board of Nursing

DATE