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May 19, 2021

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RE: Grievance Panel Written Decision

A Grievance Hearing was conducted on April 30, 2021 at 9am to consider a Statement of Grievance submitted by Registered Nursing Program student Kaylyn Willis. Ms. Willis was dismissed from UCC's Registered Nursing Program after her Exit Interview on February 24 and subsequently filed a grievance on April 2 as permitted by UCC's Administrative Procedure #5535 (AP #5535). The Grievant, Kaylyn Willis, was represented by attorney, Mr. Richard Slezak, PC, and the Respondent, April Myler, was represented by attorney Ms. Dian Rubanoff.

The Statement of Grievance and Post Hearing Memorandum outline the Grievant's case against the decision to dismiss her from the UCC Nursing Program:

- The student honestly attempted to complete a discussion post assignment in Professor Harris' Chronic I course and had no intent to violate AP 5502's Standard of Conduct: (A.) Acts which are dishonest, disrespectful, or disruptive.
- UCC Expulsion was a denial of Grievant's Freedom of Speech

Per AP #5535, the burden of proof is on Ms. Willis as she is the grievant in this matter.

After both parties submitted post-hearing documents on May 5, the Grievance Panel met on May 12 to review Ms. Willis' case, giving careful review and full consideration of the following:

Statement of Grievance; Respondent's Response (Pre-Hearing Document); Twenty-Two Documents submitted as Evidence including the UCC Code of Conduct and UCC Student Nursing Program Handbook; Grievant, Respondent and Witness Testimony; Post Hearing Documents from the Respondent and Grievant ["Grievant's Closing Argument"]

By a unanimous decision, the Grievance Panel determined that the standard of proof was not met by Ms. Willis and the decision to remove her from the UCC Nursing Program stands.



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The Grievance Panel's rationale is based on the facts presented in the documents and hearing and is outlined below.

Key Post by Grievant that led to exit interview

"Y'all, I don't know what happened. I snapped, I completely lost it! I killed him, I shot my husband. He was my main support person."

Applicable Nursing Student Standards

The Student Nursing Handbook identifies standards of behavior all Nursing Program students must adhere to at all times:

UCC Nursing Student Handbook -

8.1 Effective use of therapeutic communication, to establish a caring relationship, to create a positive environment, to inform clients, and to advocate is an essential part of all interventions.

8.3 Successful communication requires attention to elements of cultural influences, variations in the use of language and a participatory approach.

8.5 Good communication requires selection and use of appropriate communication modalities and technologies.

In addition, the National Student Nursing Association states:

National Student Nursing Association - Competency Standards -

NSNA - 6. **Actively promote the highest level of moral and ethical principles and accept responsibility for our actions.**

The Exit Interview letter specifies violations of Overall Professional Nursing Competencies 1. 1.1; 8. 8.1 through 8.4; 9. 9.1, 9.2 and 9.4; Technical Standards, Behavioral 2 through 6; and UCC Code of Conduct (A).

Rationale

The Grievance Panel notes the grievant signed documents *twice* pledging to adhere to the standards summarized above. The Grievance Panel notes that the grievant's posts:

1. Did not establish a caring relationship nor create a positive environment.
2. Failed to take into account the culture of UCC by being insensitive to the October 1, 2015 event.
3. Chose the wrong communication modality and technology. By posting in an online forum, it was hard to understand the intent of the post - whether it was a joke or serious.



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4. Described unethical and immoral behavior.

The Grievance Panel notes the grievant's omission in addressing any violation of the Overall Professional Nursing Competencies noted above.

The grievant states her discussion posts did not violate AP #5502 and itemizes the possible examples listed in the AP. The Grievance Panel reviewed AP #5502 and notes that the listed definitions of possible violations are not all-inclusive. From AP #5502, first paragraph: "These prohibitions are not designed to define misconduct in all-inclusive terms and in no way should this be considered an exhaustive list". Furthermore, the grievant states that she did intend to be "lighthearted," "playful" and a "funny scenario" when she wrote about an "epic lady-wedgie" and "ditching her pants," however the Grievance Panel determined that this post exhibits disrespectful and unprofessional language in an academic assignment.

Ms. Willis cited a New York Times article as the whole basis of her post referencing shooting her husband. At no time was this article referenced in any of the discussion posts, the email to her instructor regarding her grade on the posts, the email response to April Myler prior to the exit interview regarding her "breach of professional conduct" and it was not even mentioned during Ms. Willis's in person exit interview. The article and its reference was not mentioned until the day after Ms. Willis was exited from the program, in an email to April Myler.

Ms. Willis repeatedly references AP #5502, which she and her attorney claim UCC, "violated its own Standards of Student Conduct." In Ms. Myler's testimony, her attorney referenced BP #4106 which states, "UCC nursing program will maintain a detailed student code of conduct applicable to any student admitted to the nursing program. If a conflict exists with the UCC student code of conduct, the nursing program code of conduct will prevail." Ms. Myler additionally stated, "Our nursing students at UCC are held to a higher standard, via this handbook, than non-nursing students on our campus".

Ms. Willis agreed to a higher code of conduct than AP #5502. On August 12, 2020, Ms. Willis signed a pledge that she had "read and understood the material in the 2020-2022 UCC Nursing RN Student Procedures Handbook." By signing, Ms. Willis pledged to follow the behaviors as identified by the ANA Conduct of the Professional Nurse, the NSNA Student Code of Academic Clinical Conduct, nurse competencies, and the UCC Code of Conduct. Additionally, the pledge states: "I understand that failing to comply with the UCC nursing RN student procedures handbook may result in academic discipline and/or program dismissal."



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Ms. Willis failed to follow Nursing Student Standard 8.3 **Successful communication requires attention to elements of cultural influences**, variations in the use of language and a participatory approach. Ms. Willis stated in her testimony that she was in Douglas County during the time of the October 1, 2015 shooting tragedy that took the lives of an instructor and 8 students and rocked our community. Ms. Willis' post indicating "I shot my husband" was inappropriate, unprofessional and disruptive. She failed to take into consideration the events of UCC's past and the impact her post could have.

Regarding the alleged violation of Freedom of Speech, while no testimony was given regarding free speech during the Hearing, and acknowledging this Grievance Panel is not a legal entity, we did review the information presented in the various evidentiary documents and rely on what was provided as factual.

The Grievance Panel notes that the grievant signed specific documents to adhere to the higher Nursing Student standards. By pledging to adhere to the Nursing Student Handbook the grievant agreed to follow the professional standards outlined in the Handbook and give up certain privileges of free speech related to academic assignments, meaning academic assignments must adhere to higher level professional standards. Hazelwood School District v. Kuhlmeier states "A school need not tolerate student speech that is inconsistent with its 'basic educational mission,' even though the government could not censor similar speech outside the school." The discussion posts in question are not outside the school, rather, they are part of the academic curriculum required by professional standards for nursing students. Oyama v Univ. of Hawaii reinforces this decision: "Courts generally defer to certification decisions based on defined professional standards. (Universities may consider students' speech in making certification decisions, so long as their decisions are based on defined professional standards. Id., at 867)." From the first UCC Nursing course to the last, instructors are responsible to uphold the academic goals set by the professional standards required by Oregon State Licensure entities and as outlined in the Nursing Student Handbook.

Under AP# 5535, the Grievance Panel is required to include a specific recommendation regarding the relief to be afforded the grievant, if any.

Based on the decision and rationale above, the Grievance Panel looked at the progressive discipline of Ms. Willis regarding any recommended remedy for the student. In a meeting with Ms. April Myler on October 7, 2020 to discuss a missed deadline for a mandatory drug screening test submission, the student was assigned a "Student in Danger of Failing" with a "first and final" behavioral strike and was informed that "no additional behavioral strikes can occur...Any additional behavioral issues will result in removal from the UCC RN program". The "Student in Danger of Failing" also resulted in a "Plan of Action" of which the student was required to submit her own "Plan for



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Success" with a deadline of October 16. The student failed to meet that deadline. On November 4, Ms. Myler and Ms. Willis met to discuss the additional missed deadline and new complaints regarding inappropriate tone and body language reported by two different professors. Instead of a second behavioral strike which would have resulted in the student's dismissal, the student was given another "Student in Danger of Failing" form and a new deadline for her "Plan of Success" which the student did submit timely. Therefore, as this Grievance Panel unanimously agrees the discussion posts in Chronic I warrant a behavioral strike, and given an additional allowance for missing her "Plan of Success" deadline of October 16, there is no alternate remedy provided by this Grievance Panel. As explained to the student, a second behavioral strike warrants removal from the Registered Nursing Program per the Nursing Student Handbook.

Per AP #5535, the Grievance Panel's Decision Letter is being forwarded to the President/Designee within the timeframe afforded (May 19, 2021). Please note the official Hearing was closed upon receipt of post-hearing memoranda, May 5, 2021, as agreed by all parties. Upon the President/Designee review, the factual findings of the Grievance Hearing Panel will be accorded great weight; if the President/Designee does not accept the decision or a finding or recommendation of the Grievance Hearing Panel, the President/Designee will review the record of the hearing, and will prepare a new written decision, which contains specific factual findings and conclusions. The President/Designee will send their letter and the Grievance Panel's letter to all parties within the seven-day allowance per AP #5535. The decision of the President/Designee will be final.