



Transmitted by electronic mail only: [REDACTED]

February 17, 2022

ID#: I-360

[REDACTED]
Executive Vice President
Azure College
3201 W Commercial Boulevard #127
Fort Lauderdale, FL 33309

Dear [REDACTED]

The Commission, at its January 2022 meeting, reviewed the record¹ of Azure College's ("the institution" or "the College") application for a continued grant of accreditation and show cause directive issued in September 2021 and expanded in October 2021. Based on review and discussion, the Commission acted to **deny** the institution's application for continued accreditation and to **withdraw** the current grant of accreditation, subject to appeal in accordance with Chapter III, Section C, Subsection 6 of the *Accreditation Manual*, based on non-compliance with ABHES accreditation standards. Further, the Commission declined to review the *Application for Approval of Initial Distance Education Delivery* for the Nursing - Associate of Science program that was submitted to the Commission on January 14, 2022.

Procedural History

According to the institution's accreditation record, the institution's 2020 application for renewal of accreditation was deferred at the Commission's July 2021 meeting. The visit reports from a February 2021 evaluation visit included certain areas of non-compliance that remain unresolved and are addressed in detail below. In September of 2021, while the institution's application for renewal of accreditation was in deferral status, the Commission directed the institution to show cause why its accreditation should not be withdrawn. The Show Cause directive was based on information received from the Florida Commission for Independent Education (CIE) that the institution had enrolled and was delivering its Nursing - Associate of Science program (ASN) by distance education to students without ABHES approval. A number of the students were located outside the State of Florida. The show-cause letter outlined additional areas of non-compliance and directed a response. In a letter dated October 27, 2021, the Commission communicated to the institution new concerns that the institution had established external clinical sites for students in the ASN program who were residents of and located in the State of New York without New York State Board of Nursing approval. The institution responded in writing to the Show Cause directives and participated in a hearing before a panel of ABHES Commissioners on January 14, 2022. The full Commission considered the show cause directives and deferral

¹ The accreditation record includes the December 2020 Self-Evaluation Report, the February 2021 visit reports, the institution's March 2021 response to the reports, the Commission's August 2021 deferral letter, the Commission's September 2021 and October 2021 show cause letters, the institution's response to the letters, the September 2021 executed teach out agreement, the institution's financial history, and other relevant correspondence and documentation.

of renewal of accreditation at its January 2022 meeting and acted to deny the application for continued accreditation and withdraw the institution's accreditation for the reasons set forth below.

Reasons for Denial of the Application for Renewal and Withdrawal of Accreditation

1. A program is approved by the Commission (V.H.1.).

The Commission found that the institution has not demonstrated compliance with this standard because the institution offered its ASN program by distance education without first obtaining ABHES approval.

Standard V.H.1 requires programs to be offered and delivered as approved by ABHES. Changes in programs, including in the method of delivery, must receive Commission approval prior to implementation. The Commission has established a process for the approval of distance education delivery which requires the submission of an *Application for Initial Distance Education*, and a verification visit by an ABHES Distance Education Specialist within six months of when the approved instruction begins. In addition to obtaining ABHES approval, it is the responsibility of the institution to (1) notify local, state, and federal entities of any modification to its approved program and (2) obtain any and all applicable state authorizations to offer distance education prior to applying for ABHES approval.²

In 2020, ABHES extended flexibilities to its accredited institutions to enable them to offer courses temporarily by distance education for health and safety reasons associated with COVID-19. All temporary distance education approvals issued throughout 2020 expired on December 31, 2020. At that time, ABHES resumed its normal procedures for reviewing distance education applications from institutions intending to offer new or expanded distance education methods. According to ABHES records, the College requested ABHES approval for distance education but never submitted information required to complete the application process. Accordingly, no approval was ever granted. Nevertheless, information provided to ABHES both by Azure College and the Florida Commission for Independent Education (CIE) confirmed that the institution taught its ASN program using distance education methods after December 31, 2020, without ABHES approval, and continued to do so well into 2021 even with knowledge that approval was required.

- ABHES provided guidance to institutions in a series of Bulletins about the steps required to secure temporary approval of distance education and notification that temporary approval would expire on December 31, 2021. These Bulletins are posted on ABHES' website. They are summarized and hyperlinked in *Attachment A* of this letter.
- ABHES has retained, as part of the record in this matter, the read receipts confirming that Bulletins were received by [REDACTED], the Campus Director of record at the Fort Lauderdale Campus of Azure College throughout 2020.³
- The institution's response to the Show Cause directive indicates that the institution learned distance education approval was required at the ABHES Evaluator Workshop that took place on January 29, 2021. This was also confirmed in statements made by institution officials during the Show Cause hearing that took place on January 14, 2022.

² Chapter III, Section D., and Section D.1 ABHES *Accreditation Manual*.

³ ABHES was able to confirm through the Constant Contact software application that [REDACTED] received the April, May, and July 2020 Bulletins.

- The College hosted an ABHES evaluation visit on February 9-11, 2021. During the visit, the team confirmed that the institution was offering distance education without ABHES approval and cited it as a violation of Standard V.H.1.⁴

The record shows that Azure College continued to offer distance education without approval well into 2021. The Florida Commission for Independent Education (CIE) provided to ABHES a copy of an Azure College catalog addendum titled “*State Authorization Disclosure for Students with Distance Education and Due to COVID-19, Version 12.*” The addendum indicated that the institution “reviews admissions applications and **may enroll students in programs with distance education delivery** who are residents of Florida only.” CIE included with the addendum a copy of an email in which the institution confirmed to CIE that the catalog addendum had been mass emailed to 140 recipients from “*Mass Mailer noreply@salesforce.com on April 1, 2021.*”⁵ Other email communications forwarded to ABHES by the CIE indicate that the institution continued to offer distance education as late as July, and possibly as late as August, 2021 without ABHES approval.⁶ This was confirmed by the institution within its response to the Show Cause directives.⁷

Finally, information provided by the College to ABHES confirms that it not only offered distance education without ABHES approval, but significantly expanded both its enrollment in the ASN program and national footprint from 94 students, (8 located in 6 different states) at the time of the February 2021 evaluation visit to 495 students (from 26 different states) in September 2021. ABHES was not informed of this expanded distance education activity until September 2021 when it received the institution’s executed *Teach-Out Agreement* for the ASN program, (received on September 3, 2021).

2. The on-site administrator and management demonstrate integrity in the execution of their duties (IV.C.3).

The accreditation record includes the report of the February 9-11, 2021, site visit in which the team cited a violation of V.H.1. In the institution’s narrative response to the report received by ABHES in March 2020, Azure represented that the College **was no longer offering its program in a distance education modality and that the delivery method was all residential**. The Commission relied on this statement when it considered the College’s application for renewal of accreditation in July 2021. The Commission ultimately deferred action on the application, (August 2021) but for reasons that did not include a finding under V.H.1. In its response to the Show Cause, the College points out that all of the information describing its distance education delivery was provided in the response to the Visit Report reviewed by the Commission at its July 2021 meeting and that the Commission did not include any concerns in the August 12, 2021 deferral action.⁸ The College is correct that there was some conflicting information in its Visit Report response about its distance education delivery methods. Nevertheless, the Commission took the College at its word, crediting its narrative statement that its delivery method was all residential. It wasn’t until the Florida CIE contacted ABHES, in September of

⁴ See February 9-11, 2021, Institutional Administrative Visitation Report (Visit Report), pp. 21-22.

⁵ See November 1, 2021 Response to Show Cause, Reason for Show Cause #2 and Response, p. 4.

⁶ In a telephone call and follow up email from the CIE to India Tips, ABHES Executive Director, on August 18, 2021, information was provided that described the institution’s efforts to make preparations for students to complete their education residentially in Florida.

⁷ See November 1, 2021 Response to Show Cause, Response to Reason for Show Cause #2, pp. 4-5.

⁸ See November 1, 2021 Response to Show Cause, Response to Reason for Show Cause #2, p. 4.

2021, that ABHES learned the narrative statement in the institution's response to the Site Visit Report had not been accurate.⁹

3. The institution is properly licensed, chartered or approved to provide education beyond the secondary level under the laws and regulations of the state(s) or territories in which it operates, including any regulatory oversight body approval required to operate specific programs (II.A.1.a.5.); an institution complies with current applicable local, state, and federal laws (IV.D.1.).¹⁰

The Commission found that the institution has not demonstrated compliance with these standards and requirements because it provided no documentation to demonstrate that it was properly licensed, chartered or approved to offer a post-secondary degree program by distance education to students located in any state other than Florida, or documentation that authorization or approval in those states was not required.

4. An institution discloses in writing, prior to enrollment, any material circumstance that may adversely impact an applicant's ability to complete a program or gain employment in the field for which they are trained (IV.E.6.). All disclosures regarding educational requirements for specific state licensing or credentialing are clearly communicated (V.H.4., formerly IX.H.6 in the 2021 edition of the *Accreditation Manual*).

The institution was directed to submit, in response to the Show Cause directive, copies of disclosures provided directly to each currently enrolled student that detail any credentialing or licensing requirements necessary for employment in the field and a determination of whether the program fulfills the educational requirements for specific professional licensure or certification required for employment in the field. The institution was advised that it must determine for each state whether its program meets or does not meet such state requirements, evidence its basis for determination for each state, or disclose that the institution had not made such a determination.

In its response, the institution makes conflicting statements about student disclosures. The institution states it did not make disclosures to students whose residency is not in Florida "because none of its Florida or ABHES authorizations required it to do so." According to the institution, "enrolling students outside Florida is not prohibited by our CIE approval or ABHES accreditation." The institution provided documentation of the temporary authorization for distance education from CIE and Zoom transcripts regarding verbal disclosures made to students that, at some time in the future, students would have to be on campus to complete aspects of the program. The institution states that training in the distance education environment does not affect the student's ability to be gainfully employed, that students may take the NCLEX-RN exam in any state and once passed and licensed can work in any state. The institution indicates nursing staffing agencies are hiring Florida nurses to work in states where COVID-19 was spiking and provides documentation of a timecard for work outside of Florida for a nurse licensed in Florida. The institution did not submit evidence of its basis for determining, **for each state**, whether its program does or does not meet educational requirements for specific professional licensure or certification

⁹ The institution indicated in its response to the Show Cause directive that "in the midst of everything, we now realized that we failed to keep ABHES informed of the condition on the ground in Florida, for that we apologize." Response to Show Cause, Reason #2, p. 6.

¹⁰ See also Chapter III, Section D, Subsection 1, ABHES *Accreditation Manual*, which states: ABHES will not accredit any institution or program that lacks legal authorization under applicable State law to provide a program of education beyond the secondary level."

required for employment, or whether the institution has not made such a determination, or evidence that information specific to each state was disclosed to students as required.

5. Chapter II – Eligibility and Classifications, Section A, Subsection 1(a)(5) institutions have the approval of any regulatory oversight body required to operate specific programs.

In October of 2021, the institution was directed to respond to information ABHES had received from the Florida CIE requesting guidance on whether or how it could enter into affiliation agreements with medical facilities in New York in order to expand capacity to offer clinical experiences to nursing students there. In an email exchange with CIE officials, the institution indicated that it did not have approval of the New York Board of Nursing to offer clinical education in the State. ABHES directed the institution to expand its response to the September 2021 Show Cause directive to specifically address this new concern and to be prepared to answer questions about it during its presentation to the Commission's show cause panel. The institution was reminded in the October, 2021 letter of its continuing obligations to comply with Chapter II – Eligibility and Classifications, Section A, Subsection 1(a)(5) which requires institutions to have the approval of any regulatory oversight body required to operate specific programs, in this instance Nursing.

In its response and exhibits, the institution acknowledges it sought guidance from CIE to determine if its students could attend clinicals outside of Florida. While the institution indicates it had “zero students attending classes online” at the time, it also confirms “many of our currently students reside in states other than Florida and they are attending classes in our Fort Lauderdale campus.” The institution states that Florida Statutes Chapter 464.019(b)(1) allow “Fifty percent clinical training in the United States, the District of Columbia, or a possession or territory of the United States for a practical nursing education program, an associate degree professional nursing education program, or a professional diploma nursing education program.” It appears the institution interpreted the statutory language to mean that students may complete portions of their clinical training outside of Florida while enrolled and attending the institution. The institution also proposed to the CIE on October 21, 2021 that enrolled students who were currently working as LPN's would complete required clinical hours in the program at their place of employment. A copy of the proposal was provided with the response to the Show Cause, but the institution did not provide CIE's response.

None of the information the College provided in its Show Cause response answered the Commission's specific question regarding approval by oversight entities in New York, or other states in which students were engaged or would be engaged in clinical activities. Accordingly, the Commission concluded that the institution did not demonstrate compliance with the noted ABHES standard and requirements.

6. External clinical experiences are available to serve the diverse needs of a program (V.B.4.a.).

The Commission found that the institution has not demonstrated compliance with the standard because the institution has not submitted documentation to demonstrate that externship site viability forms are signed by an individual employed by the institution who meets the minimum qualifications of a program faculty member.

The institution did not submit faculty qualifications for [REDACTED], to include a fully completed, signed and current ABHES Faculty Data Sheet, resume/curriculum vitae (cv), signed job description, academic transcripts, or current license, certification or other credentials if required to work in the field even though [REDACTED] completed and signed the site viability evaluation for [REDACTED].

7. Faculty consists of qualified individuals (V.E.2.a.); and, faculty consists of qualified individuals (VI.B.4.).

The Commission found that the institution has not demonstrated compliance with these standards because no documentation was provided to evidence the individual currently teaching the COM:100 Introduction to Computers course meets the qualifications of a program faculty member, as requested by the Commission. The institution did not provide evidence that the previous instructor of the course, [REDACTED], met the faculty qualifications to teach the course, nor did it provide evidence it had secured an alternate qualified instructor for the course.

8. Personnel records for all full-time and part-time (including adjunct) faculty meet the requirements of Appendix E, Section B, Records Maintenance, and are up to date and maintained in a well-organized and easily accessible manner (V.E.2.c.); and, faculty is required to participate in professional growth activities annually (V.E.5.).

The Commission found that the institution has not demonstrated that [REDACTED], Nursing Program Faculty Member, has participated in professional development annually. It is noted that the institution's submitted documentation for [REDACTED], specifically a "Teaching Adults in the 21st Century" session completed on 12/14/2021 and an "Increase Student Retention by Flipping the Classroom" session completed on 2/9/2021, appears to be in-service training related to effective teaching skills, not professional growth activities related to the nursing field.

Appeal of Action, Notice of Intent to Appeal and Required Fees

If the institution wishes to appeal the action of the Commission, it may do so by filing its intent to appeal the Commission action online via [DropBox Commission Responses](#) within 10 calendar days of the date of this letter with file name, "ABHES ID#_Intent_to_Appeal," for receipt by ABHES by **5:00 p.m., Eastern Time, on February 28, 2022**. A non-refundable \$5,000 appeal fee plus an Appeal Hearing expense deposit of \$10,000 are to be remitted to ABHES to accompany the statement of intent to appeal.

All fees are to be remitted electronically. Please contact the Accounting Department at accounting@abhes.org or (703) 917-9503 to obtain an invoice. The institution will be provided a summary of expenses following the appeal hearing and will be refunded or charged the difference from the \$10,000 deposit.

Written Statement of Grounds for Appeal

The *Written Statement of Grounds for Appeal*, including a cover letter, narrative, and exhibits, must be submitted to ABHES **online via [DropBox Commission Responses](#) within 45 calendar days of the Commission action, April 4, 2022, in accordance with the instructions in Preparing Your Response**. It is imperative that the file name include ABHES ID#, RSP to Feb 2022 Denial Letter - APPEAL, and date of submission (ex: I-100_RSP to Feb 2022 Denial APPEAL Letter_42022). The institution should review carefully all procedures governing its appeal, in accordance with Chapter III, Section E, Subsection 3 of the *Accreditation Manual*. Note that the appeal is based upon the information available to the Commission at the time of its action. Unless specifically provided for in Chapter III, Section E, Subsection 3, (f), the Appeals Panel has no authority to consider evidence outside of the record reviewed by the Commission at its January 2022 meeting. The institution has the burden of demonstrating that the action of the Commission was not supported by the record or was otherwise erroneous.

In accordance with Chapter III, Section E, Subsection 3 of the Accreditation Manual, the institution retains its accreditation status during any pending appeal.

Should the institution elect not to appeal, the decision to withdraw accreditation will be effective as of February 28, 2022, and the institution may not reapply to ABHES for accreditation within one year from that date. The institution's account must be current on any outstanding fees to ABHES before a new *Application for Institutional Accreditation* will be accepted by ABHES.

Required Submissions:

The institution is directed to submit the following:

1. Teach-Out Plan and Student Disclosure

By **February 28, 2022**, the institution must submit, online via [DropBox Forms/Applications](#), an updated Teach-Out Plan for the Nursing (RN to BSN) - Bachelor of Science Degree program and the corresponding *Teach-out Plan Form* (available for download from the ABHES website at <https://abhес.org/resources/#Forms>).

The institution must also include in its submission evidence it has published a new student disclosure notice **within seven business days of the date of this letter** and that the notice is readily available to enrolled and prospective students informing them of the Withdrawal of Accreditation action as the reason the Teach-Out Plan is being required.¹¹

2. Quarterly Update for Executed Teach Out Agreement

By **March 1, 2022**, the institution must also submit, online via [DropBox Forms/Applications](#), its next quarterly update for the executed Teach Out of its Nursing - Associate of Science program regarding the remaining 495 students, who are scheduled to complete by August 31, 2023.

Disclosure

The U.S. Department of Education, the appropriate State licensing or authorizing agency, the appropriate accrediting agency, and the public have been notified of this action to withdraw the institution's accreditation and that the action is subject to appeal in compliance with 34 Code of Federal Regulations § 602.26 *et seq* and Chapter III of the *Accreditation Manual*.

¹¹ This disclosure is also required under 34 Code of Federal Regulations § 668.43(a) (19) which states: "If the institution is required to maintain a teach-out plan by its accrediting agency, notice that the institution is required to maintain such teach-out plan and the reason that the accrediting agency required such plan under § 602.24(c)(1). . ."

If you have any questions concerning this correspondence, please contact me at (703) 917-9503.

Sincerely,

A handwritten signature in cursive script that reads "India Y. Tips".

India Y. Tips
Executive Director

c: Herman Bounds, U.S. Department of Education
Joey Smith, Florida Commission for Independent Education

Attachment A

Summary of ABHES Bulletins Regarding COVID Flexibilities and Required Approvals

- March 24, 2020 Bulletin: ABHES gave institutions temporary approval to transition coursework for currently enrolled students from residential to blended or full distance delivery through June 1, 2020. <https://abhes.org/wp-content/uploads/2020/03/ABHES-Coronavirus-Statement-Update-3-24-2020-1.pdf>
- April 6, 2020 Bulletin: ABHES informed accredited institutions that in order to continue to offer courses/programs via distance education after June 1, 2020, the institutions were required to complete, as applicable, the 1) Application for Initial Distance Education Delivery; or 2) Application for Modification of Distance Education Delivery. <https://abhes.org/wp-content/uploads/2020/03/ABHES-COVID-19-Distance-Ed-Temp-Approval-Bulletin 4.6.pdf>
- May 22, 2020 Bulletin: ABHES again provided updated guidance to accredited institutions that temporary approval for distance education could be extended beyond June 1, 2020 if the institution submitted a written request to the Commission together with a list of current students in each applicable program and the date each student was anticipated to graduate and a signed agreement that the institution would not utilize new or expanded distance education delivery methods beyond the expiration date of the extended approval without seeking formal approval from ABHES. <https://abhes.org/wp-content/uploads/2020/03/ABHES-COVID-19-Distance-Ed-Temp-Approval-Bulletin-final 5 2020 v2.pdf>
- July 22, 2020 Bulletin: ABHES reiterated the May 22, 2020 guidance. <https://abhes.org/wp-content/uploads/2020/03/ABHES-COVID-19 Summer-Updates 72020.pdf>
- December 4, 2020 Bulletin: ABHES informed accredited institutions that temporary approval to offer distance education would expire on December 31, 2020 unless the institution sought formal approval by submitting, as applicable, the *Application for Initial Distance Education* or the *Application for Modification of Distance Education Delivery* no later than December 31, 2020. Institutions were also required to submit evidence that offering new or expanded distance education did not conflict with any state law or regulation. Evidence of required state approval, exemption or regulatory waivers were required to be provided with the Applications. <https://abhes.org/wp-content/uploads/2020/03/ABHES-COVID-19-Temp-DE-final.pdf>