

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NIGHTINGALE COLLEGE LLC,
d/b/a NIGHTINGALE EDUCATION
GROUP; TONEY THOMAS, an
individual; and CAROLYN
PATCHETT, an individual,

Plaintiffs,

v.

MACEO TANNER, in her official
capacity as President of the Georgia
Board of Nursing; and NATARA
TAYLOR, in her official capacity as
Executive Director of the Georgia
Board of Nursing,

Defendants.

Case No.: _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiff Nightingale College LLC, d/b/a Nightingale Education Group operates Nightingale College, an accredited, private post-secondary institution that provides nursing education nationwide through an innovative online model paired with locally arranged, in-person clinical training. Nightingale’s programs are designed to expand access to the nursing profession for working adults, parents, and residents of rural communities—

precisely the populations most affected by the nation's ongoing nursing shortage.

2. The Georgia Board of Nursing, however, enforces a protectionist policy that erects artificial barriers against out-of-state nursing programs while insulating in-state programs from competition. Under Georgia law, nursing schools based in Georgia receive blanket program approval for clinical placements. By contrast, nursing programs headquartered outside the state—no matter how well accredited or qualified—are outright forbidden from placing their students at Georgia facilities for clinical rotations.

3. Plaintiffs Tioney Thomas and Carolyn Patchett are students enrolled in Nightingale's Bachelor of Science in Nursing program. They are ready, willing, and able to complete their required clinical training at a Georgia healthcare facility that is willing to host them. But they are barred from doing so—not because of any deficiency in their education, qualifications, or supervision, and not because of any health or safety concern, but solely because they attend an out-of-state school. As a result, the Georgia Board of Nursing treats Ms. Thomas and Ms. Patchett as second-class students and denies them access to clinical training opportunities that are freely available to students enrolled in Georgia-based programs. The denial of access even forces Ms. Thomas to leave her home in Georgia to complete her clinical training.

4. Georgia's discriminatory policy harms not only Nightingale and its students, but also the people of Georgia. By restricting the ability of qualified nursing students from out-of-state programs to serve Georgians in clinical settings under supervision of licensed nurses, the Board of Nursing exacerbates its own nursing shortage—particularly in rural and underserved areas. The scheme also suppresses innovative educational models that could help alleviate these shortages, all for the sake of protecting in-state institutions from competition.

5. Plaintiffs Nightingale Education Group, Ms. Thomas, and Ms. Patchett bring this lawsuit to challenge the Board of Nursing's unconstitutional barriers under the Dormant Commerce Clause and the Equal Protection Clause of the United States Constitution and the federal Sherman Act. The Board may regulate nursing education to protect public health and safety, but it may not do so through a protectionist regime that favors in-state economic interests and burdens interstate commerce without legitimate justification.

JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 1343(a)(3) (civil rights) because this action arises under the U.S. Constitution, 42 U.S.C. § 1983, and 15 U.S.C. § 2. This Court has authority to

grant declaratory relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.

7. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred or will occur in this district.

PARTIES

8. Plaintiff Nightingale College LLC, d/b/a Nightingale Education Group operates Nightingale College, a private, accredited institution of higher education headquartered in Salt Lake City, Utah. It offers online nursing degree programs to students across the United States, including residents of Georgia. Nightingale has had, currently has, and expects to have future students who wish to complete clinical rotations in Georgia.

9. Plaintiff Tioney Thomas is a United States citizen and a resident of Covington, Georgia. She is currently enrolled in Nightingale’s Bachelor of Science in Nursing program. She is ready, willing, and able to complete her required clinical training at facilities within Georgia to fulfill the requirements for graduation and subsequent licensure.

10. Plaintiff Carolyn Patchett is a United States citizen and a resident of Aurora, Colorado. Prior to residing in Colorado, Ms. Patchett lived in Georgia for several years. She is currently enrolled in Nightingale’s Bachelor of Science in Nursing program. She is ready, willing, and able to complete her

required clinical training at facilities within Georgia to fulfill the requirements for graduation and subsequent licensure.

11. Defendant Maceo Tanner is the President of the Georgia Board of Nursing. In this role, she oversees the Board's policies governing clinical placements for nursing students, including those enrolled in out-of-state programs. She is sued in her official capacity.

12. Defendant Natara Taylor is the Executive Director of the Georgia Board of Nursing. In this role, she implements and oversees the Board's policies governing clinical placements for nursing students, including those enrolled in out-of-state programs. She is sued in her official capacity.

FACTUAL ALLEGATIONS

Nightingale and its Nursing Programs

13. Nightingale Education Group was founded to address the growing need for accessible nursing education. Nightingale College is accredited by the Northwest Commission on Colleges and Universities, a respected national accrediting agency. Its Bachelor of Science in Nursing program and Master of Science in Nursing program are accredited by the Commission on Collegiate Nursing Education. Its Practical Nurse diploma program and Licensed Practical Nurse to Associate of Science in Nursing degree program are accredited by the National League for Nursing Commission for Nursing Education Accreditation.

14. Nightingale's academic model is designed for distance learners. Students complete their didactic coursework online, allowing them to balance education with work, family, and personal obligations. This model makes nursing education accessible to individuals with responsibilities beyond academics, as well as those in rural communities who cannot easily commute to a traditional brick-and-mortar campus.

15. Nightingale offers pre-licensure nursing programs, including associate and bachelor's degrees, which prepare students to become licensed practical nurses or registered nurses. It also offers graduate level programs, with specialties in nursing education, family nurse practitioner, and psychiatric mental health nurse practitioner.

16. Graduates of Nightingale's Bachelor of Science in Nursing program are eligible for licensure as a nurse in Georgia and have obtained nursing licenses in Georgia.

Clinical Placements and Interstate Nursing Education

17. A cornerstone of nursing education is supervised field experience, commonly known as clinical placements or "clinical." These experiences allow students to apply their knowledge in real-world healthcare settings under the supervision of qualified faculty or preceptors.

18. Over the typical course of a bachelor's nursing program, six different clinical experiences are needed for graduation. Occurring once per

semester after students have completed foundational coursework, five 45-hour clinicals—typically taking place over one week—and a final 135-hour placement are required.

19. The six clinical placements begin by focusing on building core nursing skills and exposure to patient care environments, while later clinicals emphasize more advanced competencies, critical thinking, and clinical decision-making. As students progress through the program, clinical expectations increase in both complexity and responsibility.

20. To facilitate this training for its national student body, Nightingale partners with healthcare facilities across the country to secure clinical placements for its students near them. These partnerships are essential for students to complete their degree requirements and become eligible for licensure without having to leave their communities.

21. Without access to placements in Georgia, Nightingale students must complete them elsewhere even if they are residents of Georgia.

The Georgia Nursing Board's Restrictive Clinical Placement Scheme

22. Georgia law contemplates out-of-state nursing programs arranging for their students to complete clinical rotations at Georgia facilities. *See* Ga. Code Ann. § 43-26-3(1.2).

23. Despite Georgia law's system for recognizing out-of-state programs, the Georgia Board of Nursing created and enforces a policy denying

out-of-state programs the ability to obtain clinical placements in Georgia for their students.

24. The Board’s website declares that “[c]urrently, there are no out-of-state or online pre-licensure nursing programs approved by the Georgia Board of Nursing to complete clinical in Georgia.”¹

25. In response to an email inquiry in September 2025 from Nightingale to the Board seeking clarification on the Board’s policy regarding clinical placements for students of out-of-state programs like Nightingale, a Board official stated that it “is not approving out-of-state nor online pre-licensure nursing programs to complete clinicals in Georgia.”

26. The Board’s policy imposes burdens on out-of-state programs like Nightingale and its students that in-state nursing programs and their students are not subject to. For example, Ms. Thomas must leave the state to complete her clinicals solely because her school is based out-of-state.

The Scheme’s Harm to Nightingale, Its Students, and the Public

27. Georgia’s discriminatory and anticompetitive policy creates significant, artificial barriers for Nightingale to serve students in Georgia. The inability to obtain clinical placements in Georgia makes it difficult to operate in the state.

¹ See <https://sos.ga.gov/page/education>.

28. Facing the possibility that they will need to travel out of state for their clinicals—prospective students of Nightingale who reside in Georgia are disincentivized to pursue their nursing degree at Nightingale. In-state programs do not face this competitive disadvantage.

29. Nightingale students who reside in Georgia like Plaintiff Thomas must complete all of their clinical placements out of state. As a result, students like Ms. Thomas must endure travel, incur expenses, and spend time away from home that students of in-state programs do not.

30. For those Nightingale students who reside outside of Georgia but would like to complete their clinicals in Georgia—like Plaintiff Patchett—the Board’s discriminatory and anticompetitive policy prohibits them from doing so.

31. Under either scenario, Nightingale students who go on to practice nursing in Georgia are forbidden from first gaining field experience in the very state and communities they wish to serve as licensed nurses.

32. The policy also harms the public by worsening Georgia’s nursing shortage. The state has the second fewest employed registered nurses per 1,000 population in the nation,² and nearly half of its counties are designated as Health Professional Shortage Areas in primary care. The Board’s scheme

² <https://www.beckershospitalreview.com/workforce/nurses-per-capita-ranked-by-state/>.

inhibits willing and able students from becoming the nurses the state desperately needs, and it reduces healthcare options for Georgia patients in the near term by restricting students of out-of-state schools like Nightingale from serving Georgia patients during their clinicals under proper supervision.

33. There is no legitimate health or safety justification for these discriminatory and anticompetitive burdens. Nightingale's programs meet the same national accreditation standards as in-state programs. The students would be subject to the same clinical supervision requirements. The sole purpose and effect of the Board's policy is to protect in-state nursing schools from competition for students and clinical placements.

Antitrust Allegations

34. Through the Georgia Board of Nursing's categorical policy prohibiting out-of-state prelicensure nursing programs from placing students at Georgia clinical facilities, Defendants have excluded out-of-state programs from access to clinical training opportunities at Georgia facilities. As a result, clinical training opportunities at Georgia facilities are reserved exclusively for students enrolled in in-state nursing programs.

35. Defendants have granted both monopoly and market power over prelicensure nursing education programs to in-state programs by restricting clinical placements for nurse training in Georgia. By virtue of the Board's

policy, out-of-state programs are prevented from effectively competing for students in Georgia.

36. Completion of supervised clinical training is a mandatory component of prelicensure nursing education and a prerequisite for graduation and eligibility for nurse licensure. Without access to clinical placements at Georgia facilities, out-of-state nursing programs are unable to offer Georgia students a viable in-state pathway to complete their required training.

37. Clinical training placements at Georgia healthcare facilities are finite and capacity-constrained. Facilities have limited preceptor availability, patient-care capacity, and scheduling windows for supervising nursing students, which restricts the number of students who may be placed in any given term.

38. By prohibiting out-of-state programs from placing students for clinical training in Georgia facilities, the Board's policy forecloses out-of-state programs like Nightingale from access to Georgia's clinical training opportunities. In-state programs, by contrast, retain exclusive access to this essential and limited input.

39. The Board's exclusionary policy applies statewide, contains no objective approval criteria, provides no waiver or exception process, and operates on an indefinite basis. The policy therefore excludes out-of-state

programs from Georgia clinical placements over time rather than on a temporary or case-specific basis.

40. The policy constitutes an anticompetitive act because it reduces competition for nursing education programs and clinical placements in Georgia.

41. In addition to publishing the Board's anticompetitive policy on its website, the Board has also explicitly informed Nightingale, via email, that no out-of-state programs like Nightingale may place their students for clinical training at Georgia facilities.

42. The relevant product markets include: (a) prelicensure nursing education programs; and (b) clinical training placements at Georgia facilities. Clinical training placements at Georgia facilities constitute a distinct product market because they are required for completion of prelicensure nursing programs, are capacity-limited, and are not reasonably interchangeable with out-of-state clinical placements for students seeking to train and practice in Georgia.

43. The relevant geographic market is the state of Georgia. Georgia is a distinct geographic market because clinical training placements are tied to in-state facilities, are subject to Georgia regulatory control, and cannot be substituted with out-of-state placements without imposing significant costs and limiting participation by Georgia students.

44. The Board's policy has harmed competition by limiting the ability of out-of-state prelicensure nursing education programs to compete for students in Georgia. The policy suppresses competition among programs for Georgia students, limits output, and excludes innovative educational models from the market.

45. The Board's policy also harms competition for clinical placements at Georgia facilities by artificially reducing the pool of available nursing students to only those who are students of in-state programs. The reduced competition causes students of out-of-state programs—even those students who are residents of Georgia—to complete clinical training outside of Georgia.

46. The exclusion of out-of-state programs from Georgia clinical placements constrains the number of nursing students who can be trained at Georgia facilities and restricts the supply of nurses available to serve Georgia communities.

47. The Board's policy harms competition by limiting choice and reducing opportunities for students, including Georgia residents, to pursue prelicensure nursing education through out-of-state programs that meet the same accreditation and licensure requirements as in-state programs.

48. Students of in-state and out-of-state prelicensure nursing programs must satisfy the same educational requirements and pass the same national licensure exams to practice in Georgia. Excluding programs based

solely on geographic location does not advance patient safety or educational quality.

49. Any benefits created by the policy are far outweighed by the substantial burdens placed on competition. Those burdens injure competition in the prelicensure nursing education market by constraining out-of-state programs from competing for students in Georgia and by prohibiting competition for clinical placements. Out-of-state programs are injured by being unable to place their students for clinical training in Georgia, and the students of out-of-state programs are injured by being unable to complete their clinical training in Georgia even if they reside there.

Anti-Competitive Injuries to Plaintiffs

50. The policy prevents Georgia residents such as Plaintiff Thomas from obtaining clinical training in their home state, demonstrating that its purpose and effect are to reserve Georgia clinical placements for in-state programs and insulate them from competition.

51. The Board's anticompetitive policy has injured Nightingale and competition in the prelicensure nursing education market by constraining its ability to compete for students in Georgia.

52. The Board's abuse of the monopoly and market power it has granted to in-state programs harms Nightingale, other out-of-state programs, and students of out-of-state programs like Ms. Thomas and Ms. Patchett. For

example, Ms. Thomas and Ms. Patchett must complete their clinical training in states other than Georgia, and prospective students must consider their lack of clinical training options when considering prelicensure education programs.

53. The Board's policy has materially and substantially injured Nightingale by, among other things, reducing its ability to compete for students in Georgia.

54. The Board's unlawful grant of a monopoly and abuse of its grant of market power to in-state programs has also materially and substantially injured competition and injured consumer welfare by, among other things, reducing competition for prelicensure nursing education and clinical training options for nursing students.

55. If the policy is not enjoined, harm to competition and injury to Nightingale Education Group, its students, and others will continue and increase substantially.

56. Nightingale's offering of its online, distance learning prelicensure education program is within the flow of, and has substantially affected, interstate trade and commerce.

57. Nightingale, which is headquartered in Utah, has students, staff, and faculty throughout the United States, including in Georgia. Nightingale students from states other than Georgia, like Ms. Patchett, would also seek clinical placements in Georgia but for the Board's policy.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Violation of the Commerce Clause's Protection of Interstate Nursing Education

(U.S. Const. art. I, § 8, cl. 3)

58. Plaintiffs reallege and incorporate by reference all allegations contained in paragraphs 1–57.

59. The Commerce Clause of the United States Constitution grants Congress the exclusive power to regulate interstate commerce. This express grant of authority implies a corresponding limitation on the power of states to enact laws, regulations, or policies that burden or discriminate against interstate commerce. This “dormant” aspect of the Commerce Clause prohibits states from benefiting in-state economic interests by burdening out-of-state competitors.

60. State laws that discriminate on their face against interstate commerce are *per se* invalid and may be upheld only if the State can demonstrate that the discrimination is narrowly tailored to advance a legitimate local purpose that cannot be achieved through reasonable, nondiscriminatory alternatives.

61. Defendants’ implementation and enforcement of the Board of Nursing’s policy prohibiting clinical placements at Georgia facilities for students of out-of-state programs facially discriminates against interstate

commerce by imposing prohibitions exclusively on out-of-state nursing education programs. The policy explicitly targets out-of-state programs for differential treatment.

62. In-state programs face no similar barriers. This differential treatment provides an unfair economic advantage to in-state schools at the expense of out-of-state schools like Nightingale. It thereby confers a structural competitive advantage on in-state institutions solely by virtue of their geographic location.

63. The Board's policy also directly regulates interstate commerce by reducing the ability of out-of-state programs to compete for students in Georgia and by destroying the ability of out-of-state programs' students to obtain clinical placements in Georgia. These burdens do not arise incidentally, but flow directly from a Board policy that expressly disfavors out-of-state economic actors.

64. The policy prevents Plaintiff Nightingale from effectively competing for access to Georgia's nursing education and clinical placement market. It imposes unique administrative costs, creates an unpredictable regulatory environment, and disrupts its interstate business operations—barriers imposed solely on interstate competitors.

65. Plaintiff Ms. Thomas is denied the right to access local clinical training in her home state solely because she chose an out-of-state provider of

educational services rather than because of any difference in program quality, supervision, or patient safety. She is compelled to navigate a protectionist scheme that treats her as a second-class student, thereby threatening her ability to graduate and enter the workforce and imposing burdens not borne by students at Georgia institutions.

66. Similarly, Plaintiff Ms. Patchett is denied the right to access clinical training in Georgia solely because she chose an out-of-state provider rather than because of any difference in program quality, supervision, or patient safety. She is also compelled to navigate a protectionist scheme that treats her as a second-class student and imposes burdens not borne by students at Georgia institutions.

67. This discriminatory scheme lacks any legitimate local purpose that cannot be adequately served by reasonable, nondiscriminatory alternatives. The Board's interest in ensuring educational quality and public safety is achieved through uniform accreditation standards and licensure requirements.

68. Georgia already permits graduates of these same programs to obtain nursing licenses and treat patients in the state. The prohibition on students of out-of-state programs completing clinical training in Georgia serves no purpose other than economic protectionism.

69. By enforcing a policy that erects protectionist barriers against out-of-state educational institutions, Defendants deprive Nightingale of its constitutional right to engage in interstate commerce free from discriminatory state interference. This violation has caused, and continues to cause, irreparable injury to Plaintiff's business operations and its ability to serve students within Georgia. Absent injunctive relief, Plaintiffs will continue to suffer ongoing and prospective exclusion from interstate commerce.

70. Defendants' policy likewise deprives Plaintiffs Thomas and Patchett of their constitutional right to engage in interstate commerce free from discriminatory state interference. This violation has caused, and continues to cause, irreparable injury to their ability to complete their clinical training in the state of their choice.

SECOND CAUSE OF ACTION

Violation of Equal Protection

(U.S. Const. amend. XIV, § 1)

71. Plaintiffs reallege and incorporate by reference all allegations contained in paragraphs 1–57.

72. The Equal Protection Clause of the Fourteenth Amendment prohibits states from denying any person the equal protection of the laws. This mandate requires that the government treat similarly situated individuals alike and prohibits the creation of classifications that are not rationally related

to a legitimate government interest. This includes prohibiting arbitrary classifications that burden one group while conferring advantages on another without a rational relationship to a legitimate governmental interest.

73. Defendant's policy creates an arbitrary and irrational classification between nursing students enrolled in in-state programs and those enrolled in out-of-state programs. It disadvantages students like Plaintiffs Tioney Thomas and Carolyn Patchett by preventing them from being placed in Georgia for their clinical training even if they live there or wish to relocate to Georgia after completing their nursing education. Both groups of students are similarly situated in all material respects relevant to clinical training, licensure eligibility, and patient safety.

74. Yet the challenged policy subjects only the students of out-of-state programs, including Ms. Thomas and Ms. Patchett, to the burden of seeking their clinical placements outside of Georgia. This classification bears no rational relationship to any legitimate state interest, including public health, educational quality, or patient safety. The restrictions apply regardless of the quality of the out-of-state program and regardless of whether in-state programs actually seek to use the same clinical placements. Accordingly, the discriminatory treatment of Plaintiffs violates the Equal Protection Clause.

THIRD CAUSE OF ACTION

Illegal Monopolization of Nursing Education and Clinical Training (15 U.S.C § 2)

75. Plaintiffs reallege and incorporate by reference all allegations contained in paragraphs 1–57.

76. The relevant product markets are: (a) prelicensure nursing education programs and (b) clinical training placements at Georgia healthcare facilities. Clinical training placements at Georgia facilities constitute a distinct product market because they are mandatory for completion of prelicensure nursing education, capacity-constrained, and not reasonably interchangeable with out-of-state clinical placements for students seeking to train and practice in Georgia.

77. The relevant geographic market is the State of Georgia. Georgia constitutes a distinct geographic market because clinical training placements are tied to in-state facilities, subject to Georgia regulatory control, and cannot be substituted with out-of-state placements without imposing significant costs and limiting participation by Georgia students.

78. Defendants have granted monopoly power to in-state nursing education programs in the markets for pre-licensure nursing education programs and clinical training placements for their students in Georgia.

79. By foreclosing out-of-state programs from access to all Georgia clinical training placements, the Board's policy reserves an essential and limited input exclusively for in-state programs and prevents out-of-state programs from competing in the Georgia prelicensure nursing education market on equal terms.

80. The Board's policy is statewide, indefinite, and not governed by objective approval criteria or a meaningful waiver or exception process. As a result, the exclusion of out-of-state programs from Georgia clinical placements is durable and not subject to competitive correction.

81. Defendants have willfully maintained this monopoly in the market for pre-licensure nursing education programs and clinical training placements in Georgia through exclusionary conduct, including the categorical prohibition on out-of-state programs placing students at Georgia facilities.

82. Defendants' willful maintenance of the monopoly has caused reduced competition by limiting output, suppressing competition among nursing education programs for Georgia students, and excluding innovative educational models from the Georgia market.

83. Defendants' conduct has caused antitrust injury by foreclosing out-of-state programs, including Plaintiff Nightingale, from access to Georgia clinical placements and impairing their ability to compete for students in Georgia.

84. Defendants' conduct has also injured students, including Plaintiffs Thomas and Patchett, by restricting their ability to complete required clinical training in Georgia and by reducing choice and competition in prelicensure nursing education.

85. Defendants' willful maintenance of monopoly power has caused and will continue to cause substantial harm to competition, consumers, and patient welfare in Georgia unless enjoined.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

1. A declaratory judgment that the Georgia Board of Nursing's policy prohibiting clinical placements at Georgia facilities for students of out-of-state nursing education programs, on its face and as applied to Plaintiffs, violates the Commerce Clause and Equal Protection Clause of the United States Constitution, as well as the Sherman Act;
2. A permanent injunction prohibiting Defendants, their officers, agents, employees, successors, and all persons acting in concert with them from enforcing the discriminatory policy prohibiting clinical placements at Georgia facilities for students of out-of-state nursing education programs;
3. Nominal damages in the amount of \$1.00 for each Plaintiff;
4. An award of attorneys' fees, costs, and expenses in this action pursuant to 42 U.S.C. § 1988; and

5. Such other relief as the Court deems just, necessary, or proper.

DATED: February 12, 2026.

Respectfully submitted,

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** Pro Hac Vice Applications
forthcoming*

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