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**BEFORE THE**
**DEPARTMENT OF CONSUMER AFFAIRS**
**FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
**STATE OF CALIFORNIA**

| | |
|---|---|
| In the Matter of the Statement of Issues Against:<br><br>**LOS ANGELES BEAUTY COLLEGE; EVELYN SALAS, OWNER**<br><br>**Renewal for Approval to Operate and Offer Educational Programs for Non-Accredited Institutions Applicant**<br><br>**Institution Code: 1904831**<br><br>Respondent. | BPPE Case No. 1002943<br><br>OAH Case No.<br><br>**STATEMENT OF ISSUES** |

Complainant alleges:

**PARTIES**

1. Dr. Michael Marion, Jr. ("Complainant") brings this Statement of Issues solely in his official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of Consumer Affairs.

2. On or about June 28, 2013, the Bureau for Private Postsecondary Education ("the Bureau") received an application for a Renewal for Approval to Operate and Offer Educational Programs for Non-Accredited Institutions from Los Angeles Beauty College, Evelyn Salas

(Owner), ("Respondent"). On or about June 28, 2013, Evelyn Salas (Owner) certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on August 25, 2017.

## JURISDICTION

3. This Statement of Issues is brought before the Director of the Department of Consumer Affairs ("Director") for the Bureau for Private Postsecondary Education, under the authority of the following laws. All section references are to the California Education Code unless otherwise indicated.

4. Section 94886 states:

"Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter."

5. Section 94887 states:

"An approval to operate shall be granted only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating standards. The bureau shall deny an application for an approval to operate if the application does not satisfy those standards."

## STATUTORY PROVISIONS[1]

6. Section 94891 of the Education Code states in relevant part:

...

"(b) To be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards."

....

[1] On October 11, 2009, the California Private Postsecondary Education Act of 2009 was signed into law. (Educ. Code, §§ 94800, et seq.) The Act was recently amended, effective January 1, 2017. (*See*: Senate Bill No. 1247.) This Statement of Issues is based on the post-amendment version of the Act.

7. Section 94906 of the Education Code states in relevant part:

"(a) An enrollment agreement shall be written in language that is easily understood. If English is not the student's primary language, and the student is unable to understand the terms and conditions of the enrollment agreement, the student shall have the right to obtain a clear explanation of the terms and conditions and all cancellation and refund policies in his or her primary language."

8. Section 94909 of the Education Code states in relevant part:

"(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a prospective student, either in writing or electronically, with a school catalog containing, at a minimum, all of the following:

...

(4) The address or addresses where class sessions will be held.

(5) A description of the programs offered and a description of the instruction provided in each of the courses offered by the institution, the requirements for completion of each program, including required courses, any final tests or examinations, any required internships or externships, and the total number of credit hours, clock hours, or other increments required for completion.

...

(8) A detailed description of institutional policies in the following areas:

(A) Admissions policies, including the institution's policies regarding the acceptance of credits earned at other institutions or through challenge examinations and achievement tests, admissions requirements for ability-to-benefit students, and a list describing any transfer or articulation agreements between the institution and any other college or university that provides for the transfer of credits earned in the program of instruction. If the institution has not entered into an articulation or transfer agreement with any other college or university, the institution shall disclose that fact.

(B) Cancellation, withdrawal, and refund policies, including an explanation that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later. The text shall also include a description of the procedures that a student is required to follow to cancel

the enrollment agreement or withdraw from the institution and obtain a refund consistent with the requirements of Article 13 (commencing with Section 94919).

...

(9) The schedule of total charges for a period of attendance and an estimated schedule of total charges for the entire educational program.

...

(15) The following statement:

"NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION

The transferability of credits you earn at (name of institution) is at the complete discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution. For this reason, you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma, or certificate) will transfer.""

...

9. Section 94911 of the Education Code states:

"An enrollment agreement shall include, at a minimum, all of the following:

...

(b) A schedule of total charges, including a list of any charges that are nonrefundable and the student's obligations to the Student Tuition Recovery Fund, clearly identified as nonrefundable charges.

(c) In underlined capital letters on the same page of the enrollment agreement in which the student's signature is required, the total charges for the current period of attendance, the estimated

total charges for the entire educational program, and the total charges the student is obligated to pay upon enrollment.

...

(e) (2) The disclosure shall contain the institution's refund policy and a statement that, if the student has received federal student financial aid funds, the student is entitled to a refund of moneys not paid from federal student financial aid program funds."

...

10. Section 94910 of the Education Code states:

"Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to enrollment, an institution shall provide a prospective student with a School Performance Fact Sheet containing, at a minimum, the following information, as it relates to the educational program:

(a) Completion rates, as calculated pursuant to Article 16 (commencing with Section 94928).

(b) Placement rates for each educational program, as calculated pursuant to Article 16 (commencing with Section 94928), if the educational program is designed to lead to, or the institution makes any express or implied claim related to preparing students for, a recognized career, occupation, vocation, job, or job title.

(c) License examination passage rates for programs leading to employment for which passage of a state licensing examination is required, as calculated pursuant to Article 16 (commencing with Section 94928).

(d) Salary or wage information, as calculated pursuant to Article 16 (commencing with Section 94928).

...

(f) All of the following:

(1) A description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated or a statement informing the reader of where he or she may obtain a description of the manner in which the figures described in subdivisions (a) to (d), inclusive, are calculated.

///

(2) A statement informing the reader of where he or she may obtain from the institution a list of the employment positions determined to be within the field for which a student received education and training for the calculation of job placement rates as required by subdivision (b).

(3) A statement informing the reader of where he or she may obtain from the institution a list of the objective sources of information used to substantiate the salary disclosure as required by subdivision (d).

(g) The following statements:

(1) "This fact sheet is filed with the Bureau for Private Postsecondary Education. Regardless of any information you may have relating to completion rates, placement rates, starting salaries, or license exam passage rates, this fact sheet contains the information as calculated pursuant to state law."

(2) "Any questions a student may have regarding this fact sheet that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers)""

11. Section 94912 of the Education Code states:

"Prior to the execution of an enrollment agreement, the information required to be disclosed pursuant to subdivisions (a) to (d), inclusive, of Section 94910 shall be signed and dated by the institution and the student. Each of these items shall also be initialed and dated by the student."

12. Section 94919 of the Education Code, subdivision (c) states:

"The bureau may adopt by regulation a different method of calculation for instruction delivered by other means, including, but not necessarily limited to, distance education."

13. Section 94928 of the Education Code states:

"As used in this article, the following terms have the following meanings:

(a) "Cohort population" means the number of students that began a program on a cohort start date.

(b) "Cohort start date" means the first class day after the cancellation period during which a cohort of students attends class for a specific program.

(c) "On-time graduates" means the number of students who complete a program within 100 percent of the published program length. An institution may separately state completion information for students completing the program within 150 percent of the original contracted time, but that information may not replace completion information for students completing within the original scheduled time. Completion information shall be separately stated for each campus or branch of the institution.

(d) "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment.

(e)(1) "Graduates employed in the field" means graduates who are gainfully employed in a single position for which the institution represents the program prepares its graduates, beginning within six months after a student completes the applicable educational program. For occupations for which the state requires passing an examination, the period of employment shall begin within six months of the announcement of the examination results for the first examination available after a student completes an applicable educational program.

(2) The bureau shall define by July 1, 2014, specific measures and standards for determining whether a student is gainfully employed in a full-time or part-time position for which the institution represents the program prepares its graduates, including self-employment or conducting freelance work, and may set the standards for the hours per week and duration of employment and utilize any job classification methodology the bureau determines appropriate for this purpose, including, but not limited to, the United States Department of Labor's Standard Occupational Classification codes.

(3) This subdivision shall not prohibit the bureau from authorizing an institution to aggregate single positions held by a graduate for purposes of meeting the hours per week standards established by the bureau.

(f) "Graduates unavailable for employment" means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education at an accredited or bureau-approved postsecondary institution.

///

(g) "Students available for graduation" means the cohort population minus the number of students unavailable for graduation.

(h) "Students unavailable for graduation" means students who have died, been incarcerated, or called to active military duty."

14. Section 94934 of the Education Code states:

"(a) As part of the compliance program, an institution shall submit an annual report to the bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year, or another date designated by the bureau, and it shall include the following information for educational programs offered in the reporting period:

(1) The total number of students enrolled by level of degree or for a diploma.

(2) The number of degrees, by level, and diplomas awarded.

(3) The degree levels and diplomas offered.

(4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

(5) The school catalog, as required pursuant to Section 94909.

(6) The total charges for each educational program by period of attendance.

(7) A statement indicating whether the institution is, or is not, current in remitting Student Tuition Recovery Fund assessments.

(8) A statement indicating whether an accrediting agency has taken any final disciplinary action against the institution.

(9) Additional information deemed by the bureau to be reasonably required to ascertain compliance with this chapter.

(b) The bureau, by January 1, 2011, shall prescribe the annual report's format and method of delivery."

## REGULATORY PROVISIONS

15. California Code of Regulations, title 5, section 71800 states:

"In addition to the requirements of section 94911 of the Code, an institution shall provide to each student an enrollment agreement that contains at the least the following information:

...

(b) Period covered by the enrollment agreement.

...

(e) Itemization of all institutional charges and fees including, as applicable:

...

(2) Registration fee (non-refundable);

...

(11) Student Tuition Recovery Fund fee (non-refundable);

...

(f) Charges paid to an entity other than an institution that is specifically required for participation in the educational program."

16. California Code of Regulations, title 5, section 71475 states:

...

"(e) The institution shall submit at the time it applies for renewal current financial statements that meet the requirements of section 74115 as follows: (1) for an institution with annual gross revenues of $500,000 and over, statements shall be audited; (2) for an institution with annual gross revenues less than $500,000, statements shall be reviewed.

...

(o) The institution shall include, with its application, exemplars of all student enrollment agreements and instruments of indebtedness."

...

17. California Code of Regulations, title 5, section 71750 states in relevant part:

"(c) A pro rata refund pursuant to section 94919(c) or 94920(d) or 94927 of the Code shall be no less than the total amount owed by the student for the portion of the educational program provided subtracted from the amount paid by the student, calculated as follows:

...

(c)(3) Except as provided herein, all amounts that the student has paid shall be subject to refund unless the enrollment agreement and the refund policy outlined in the catalog specify amounts paid for an application fee or deposit not more than $250.00, books, supplies, or

equipment, and specify whether and under what circumstances those amounts are non-refundable. Except when an institution provides a 100% refund pursuant to section 94919(d) or section 94920(b) of the Code, any assessment paid pursuant to section 94923 of the Code is non-refundable."

18. California Code of Regulations, title 5, section 71745 states:

"(a) The institution shall document that it has at all times sufficient assets and financial resources to do all of the following:

(1) Provide all of the educational programs that the institution represented it would provide.

(2) Ensure that all students admitted to its educational programs have a reasonable opportunity to complete the programs and obtain their degrees or diplomas.

(3) Maintain the minimum standards required by the Act and this chapter.

(4) Pay timely refunds as required by Article 13 of the Act.

(5) Pay all operating expenses due within 30 days.

(6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the end of the most recent fiscal year when using generally accepted accounting principles, or for an institution participating in Title IV of the federal Higher Education Act of 1965, meet the composite score requirements of the U.S. Department of Education. For the purposes of this section, current assets does not include: intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and non-returnable deposits, or state or federal grant or loan funds that are not the property of the institution but are held for future disbursement for the benefit of students. Unearned tuition shall be accounted for in accordance with general accepted accounting principles.

(b) At an institution's request, the Bureau may consider the financial resources of a parent company if the parent company, as defined by section 94853 of the Code, meets and maintains all of the following provisions:

(1) Consents in writing to be sued in California;

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(2) Consents in writing to be subject to the jurisdiction of the Bureau with respect to the institution's regulation under the Act and this Chapter;

(3) Designates and maintains an agent for service of process, consistent with section 74190;

(4) Agrees in writing to pay any refund, claim, penalty, or judgment that the institution is obligated to pay; and

(5) Files financial reports, maintains financial records, and consents in writing to permit the inspection and copying of financial records to the same extent as is required of the institution.

(c) An institution shall provide to the Bureau its most current financial statements upon request."

19. California Code of Regulations, title 5, section 71930, subdivision (e) states:

"All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations."

20. California Code of Regulations, title 5, section 74115 states:

"(a) This section applies to every set of financial statements required to be prepared or filed by the Act or by this chapter.

(b) A set of financial statements shall contain, at a minimum, a balance sheet, an income statement, and a cash flow statement, and the preparation of financial statements, shall comply with all of the following:

(1) Audited and reviewed financial statements shall be conducted and prepared in accordance with the generally accepted accounting principles established by the American Institute of Certified Public Accountants by an independent certified public accountant who is not an employee, officer, or corporate director or member of the governing board of the institution.

(2) Financial statements prepared on an annual basis as required by section 74110(b) shall be prepared in accordance with the generally accepted accounting principles established by the American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual financial statements as required under generally accepted accounting principles for nonprofit organizations.

(3) The financial statements shall establish that the institution meets the requirements for financial resources required by Section 71745.

(4) If an audit performed to determine compliance with any federal or state student financial aid program reveals any failure to comply with the requirements of the program and the noncompliance creates any liability or potential liability for the institution, the financial statements shall reflect the liability or potential liability.

(5) Any audits shall demonstrate that the accountant obtained an understanding of the institution's internal financial control structure, assessed any risks, and has reported any material deficiencies in the internal controls.

(c) Work papers for the financial statements shall be retained for five years from the date of the statements and shall be made available to the Bureau upon request.

(d) "Current" with respect to financial statements means completed no sooner than 120 days prior to the time it is submitted to the Bureau, and covering no less than the most recent complete fiscal year. If more than 8 months will have elapsed between the close of the most recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no less than five months of that current fiscal year."

21. California Code of Regulations, title 5, section 74112 states:

"(a) Format. The format for the Performance Fact Sheet shall be in at least 12 pt. type, in an easily readable font, with 1.15-line spacing and all titles and column headings shall be in bold 14 pt. type, which shall also identify the program for which the Performance Fact Sheet pertains. The Performance Fact Sheet shall contain all and only the information required or specifically permitted by sections 94910 and 94929.5 of the Code or this chapter. A separate Performance Fact Sheet shall be prepared for each program.

...

(d) In addition to the definitions contained in section 94928 of the Code:

(1) "Number of Students Who Began the Program" means the number of students who began a program who were scheduled to complete the program within 100% of the published program

length within the reporting calendar year, and excludes all students who cancelled during the cancellation period.

(2) "Number of On-time Graduates" means the number of students who completed the program within 100% of the published program length within the reporting calendar year.

(3) "Gainfully Employed" means:

(A)(i) The graduate is employed in a job classification under the United States Department of Labor's Standard Occupational Classification codes, using the Detailed Occupation (six-digit) level, for which the institution has identified in its catalog and in its employment positions list required by section 94910(f)(2) of the Code that the program prepares its graduates; and

(ii) The graduate is employed in a single position or concurrent aggregated positions totaling at least 30 hours per week for 5 weeks (35 calendar days), or totaling at least 20 hours per week for 5 weeks (35 calendar days) with a statement signed by the graduate stating that he or she chose to seek part-time employment rather than fulltime employment after graduation; or

(B) The graduate is employed by the same employer that employed the graduate before enrollment, and any of the following conditions are met:

(i) the graduate is employed in an occupation with a different Detailed Occupation(six-digit) level Standard Occupational Classification code than applies to the position in which the graduate was employed before enrollment; or

(ii) the employer or the graduate provides a statement to the effect that the employment after graduation was the result of a promotion with increased pay, due at least in part to graduation from the program;

(iii) the employer or the graduate provides a statement to the effect that the degree or the completed program was required as a condition of continued employment; or

(C) The graduate is self-employed or working freelance as reasonably evidenced by, but not limited to, a business license, fictitious business name statement, advertising (other than business cards), website, or business receipts or other evidence of income from business; or an attestation signed by the graduate of self-employment or freelance work and dated after graduation.

...

(f) Total Charges. The institution's Annual Report and Performance Fact Sheet shall include the total charges for a student to complete the program within 100% of the program length. The institution must include the disclosure that there may be additional charges if the program is not completed on-time.

Total charges shall be disclosed in the Performance Fact Sheet in a format substantially similar to the format listed below (dates and numbers are for example only):

Cost of Educational Program:

Total Charges for the program for students completing on-time in 20XX: >$50,000.

Total Charges may be higher for students that do not complete on-time.

Student's Initials: _____

Date: _____

Initial only after you have had sufficient time to read and understand the information."

(g) Student Loan/Debt Information.

(1) If the institution participates in federal financial aid programs, the institution shall include loan information in the institution's Annual Report and on the Performance Fact Sheet. The loan information shall include:

(A) The most recent three year cohort default rate, as reported by the United States Department of Education;

(B) The percentage of enrolled students receiving federal student loans;

(C) The average amount of federal student loan debt of those graduates who have federal student loan debt in the reporting year; and

(D) The percentage of graduates with federal student loans, as calculated by the institution.

Loan information shall be included in the Performance Fact Sheet in a format substantially similar to the format listed below (dates and numbers are for example only):

(h) Completion Rates. Reporting of completion rates for an institution's Annual Report and Performance Fact Sheet shall include, for each educational program, the number of students who began the program as defined in subdivision (d)(1) of this section, the number of students available

for graduation, number of on-time graduates, and completion rate(s). An optional table may be added to include completion rate data for students completing within 150% of the published program length. For an institution reporting completion data pursuant to section 94929(b) of the Code, completion data shall be separately reported for each program and the Performance Fact Sheet shall disclose, if true, that the completion data is being reported for students completing within 150% of the published program length, and that data is not being separately reported for students completing the program within 100% of the published program length. Programs that are more than one year in length which are reporting 150% Completion Rate will provide four calendar years of data.

Completion rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below (dates, numbers, and other data shown are for example only):

On-time Completion Rates (Graduation Rates) (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

| Calendar Year | Number of Students Who Began the Program | Students Available for Graduation | Number of On-time Graduates | On-time Completion Rate |
|---|---|---|---|---|
| 20XX | 100 | 98 | 70 | 71% |
| 20XY | 80 | 80 | 55 | 69% |

Students Completing Within 150% of the Published Program Length

Name of Educational Program (Program Length)

| Calendar Year | Number of Students Who Began the Program | Students Available for Graduation | 150% Graduates | 150% Completion Rate |
|---|---|---|---|---|
| 20XX | 100 | 98 | 95 | 97% |
| 20XY | 80 | 80 | 78 | 98% |

| Calendar Year | Number of Students Who Began the Program | Students Available for Graduation | 150% Graduates | 150% Completion Rate |
|---|---|---|---|---|
| *20XZ | 90 | 90 | 87 | 97% |
| *20YA | 87 | 85 | 74 | 87% |

*Included only if program is more than one year in length

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time

to read and understand the information.

(i) Job Placement Rates.

(1) Any placement data required by sections 94910(b) and 94929.5(a) of the Code shall be reported for the number of students who began the program as defined in subdivision (d)(1) of this section for each reported calendar year.

(2) Placement is measured six months from the graduation date of each student. For programs that require passage of a licensing examination, placement shall be measured six months after the announcement of the examination results for the first examination available after a student completes an applicable educational program. Reporting of placement rates shall include for each educational program: the number of students who began the program, the number of graduates as defined in section 94842 of the Code, the graduates available for employment, graduates employed in the field and job placement rate(s).

(3) If the institution makes any claim related to preparing students for a job or regarding job placement, the list required by section 94910(f)(2) of the Code shall identify the employment positions by using the Detailed Occupation or six-digit level of the Standard Occupational Classification codes.

(4) Placement rate shall be calculated as follows: the number of graduates employed in the field as defined in section 94928(e)(1) of the Code in conjunction with section 74112(d)(3) divided by the number of graduates available for employment as defined in section 94928(d) of the Code.

Job Placement rates and related disclosures shall be included in the Performance Fact Sheet in a format substantially similar to the charts below, (dates, numbers, and other data shown are for example only):

Job Placement Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

| Calendar Year | Number of Students Who Began the Program | Number of Graduates | Graduates Available for Employment | Graduates Employed in the Field | Placement Rate % Employed in the Field |
|---|---|---|---|---|---|
| 20XX | 100 | 70 | 70 | 55 | 79% |
| 20XY | 80 | 55 | 55 | 20 | 36% |

Gainful Employment Categories (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Part Time vs. Full Time Employment

| | Graduates Employed in the field 20 to 29 hours per week | Graduates Employed in the field at least 30 hours per week | Total Graduates Employed in the Field |
|---|---|---|---|
| 20XX | 15 | 40 | 55 |
| 20XY | 5 | 15 | 20 |

Single Position vs. Concurrent Aggregated Positions

| | Graduates Employed in the field in a single position | Graduates Employed in the field in concurrent aggregated positions | Total Graduates Employed in the Field |
|---|---|---|---|
| 20XX | 52 | 3 | 55 |
| 20XY | 19 | 1 | 20 |

Self-Employed/Freelance Positions

| | Graduates Employed who are self-employed or working freelance | Total Graduates Employed in the Field |
|---|---|---|
| 20XX | 3 | 55 |
| 20XY | 5 | 20 |

Institutional Employment

| | Graduates Employed in the field who are employed by the institution, an employer owned by the institution, or an employer who shares ownership with the institution | Total Graduates Employed in the Field |
|---|---|---|
| 20XX | 15 | 55 |
| 20XY | 5 | 20 |

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time

to read and understand the information.

(j) License Examination Passage Rates. If license examination passage rates are not available from the appropriate state agency, an institution shall collect the information directly from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to obtain the examination passage information from its graduates, the institution shall report the number of students it could not contact and note in a font the same size as the majority of the data on the Performance Fact Sheet, "License examination passage data is not available from the state agency administering the examination. We were unable to collect data from [enter the number] graduates." Reporting of license examination passage rates for the Annual Report and the Performance Fact Sheet shall include, for each educational program: the number of graduates in the reported year, the number of documented graduates who passed the first available examination, number of documented graduates who failed the first available examination, the number of graduates for

whom data is not available. An optional column may be added to separately report licensing examination data for graduates who take and pass the exam after failing initially. The Annual Report shall also include a description of the processes for attempting to contact those students. For licensing examinations that are not continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, (dates, numbers, and other data shown are for example only):

License Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

| First Available Exam Date | Date Exam Results Announced | Number of Graduates in Calendar Year | Number of Graduates Taking Exam | Number Who Passed Exam | Number Who Failed Exam | Passage Rate[3] |
|---|---|---|---|---|---|---|
| 2/1/20XX | 3/15/20XX | 277 | 80 | 40 | 40 | 50% |
| 6/1/20XX | 7/15/20XX | 277 | 100 | 75 | 25 | 75% |
| 10/1/20XX | 11/15/20XX | 277 | 82 | 68 | 14 | 76% |
| 2/1/20XY | 3/20/20XX | 304 | 80 | 40 | 40 | 50% |
| 6/1/20XY | 7/19/20XX | 304 | 100 | 70 | 30 | 70% |
| 10/1/20XY | 11/19/20XX | 304 | 92 | 62 | 30 | 67% |

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 32 graduates.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time

to read and understand the information.

For licensing examinations that are continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart

below (dates, numbers, and other data shown are for example only):

License Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

| Calendar Year | Number of Graduates in Calendar Year | Number of Graduates Taking Exam | Number Who Passed First Available Exam | Number Who Failed First Available Exam | Passage Rate |
|---|---|---|---|---|---|
| 20XX | 95 | 80 | 40 | 40 | 50% |
| 20XY | 109 | 100 | 75 | 25 | 75% |

License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 10 graduates.

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time

to read and understand the information.

(k) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to sections 94910(d) and 94929.5(a)(3)of the Code and shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

Annual Salary and Wages Reported for Graduates Employed in the Field

| Calendar Year | Graduates Available for Employment | Graduates Employed in the Field | $15,000 - $20,000 | $20,001 - $25,000 | $25,001 - $30,000 | $30,001 - $35,000 | No Salary Information Reported |
|---|---|---|---|---|---|---|---|
| 20XX | 100 | 70 | 5 | 40 | 6 | 3 | 16 |
| 20XY | 80 | 55 | 5 | 7 | 3 | 5 | 35 |

A list of sources used to substantiate salary disclosures is available from the school. (Insert how student can obtain this information.)

Student's Initials: _____ Date: _____

Initial only after you have had sufficient time

to read and understand the information.

...

(m) Documentation supporting all data reported shall be maintained electronically by the institution for at least five years from the last time the data was included in either an Annual Report or a Performance Fact Sheet, and shall be provided to the Bureau upon request; and the data for each program shall include at a minimum:

(1) the list of job classifications determined to be considered gainful employment for the educational program;

(2) student name(s), address, phone number, email address, program completed, program start date, scheduled completion date, and actual completion dates;

(3) graduate's place of employment and position, date employment began, date employment ended, if applicable, actual salary, hours per week, and the date employment was verified;

(4) for each employer from which employment or salary information was obtained, the employer name(s) address and general phone number, the contact person at the employer and the contact's phone number and email address, and all written communication with employer verifying student's employment or salary;

(5) for students who become self-employed, all documentation necessary to demonstrate self-employment;

(6) a description of all attempts to contact each student. or employer;

(7) any and all documentation used to provide data regarding license examinations and examination results;

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(8) for each student determined to be unavailable for graduation or unavailable for employment, the identity of the student, the type of unavailability, the dates of unavailability, and the documentation of the unavailability; and

(9) the name, email address, phone number, and position or title of the institution's representative who was primarily responsible for obtaining the students' completion, placement, licensing, and salary and wage data, the date that the information was gathered, and copies of notes, letters or emails through which the information was requested and gathered."

22. California Code of Regulations, title 5, section 71485 states:

"Failure of an institution to have made current payments of the assessments to the Student Tuition Recovery Fund as required by chapter 7 of this Division, and annual fees as required by chapter 5 of this Division shall render the institution ineligible for renewal."

23. California Code of Regulations, title 5, section 76130 states in relevant part:

...

"(b) A qualifying institution shall complete the STRF Assessment report and remit it with the STRF assessments collected from students to be received by the Bureau no later than the last day of the month following the close of the quarter as follows:

(1) April 30 for the first quarter,

(2) July 31 for the second quarter,

(3) October 31 for the third quarter, and

(4) January 31 for the fourth quarter.

If the due date falls on a Saturday, Sunday, or State or federal holiday, the due date shall be extended to the next regular business day for the Bureau."

...

"(e) Submission of all prior reports and assessments required by this section is a condition of renewal."

24. California Code of Regulations, title 5, section 74110 states:

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"(a) The annual report required by Section 94934 of the Code shall include the information required by sections 94929.5 and 94934 for all educational programs offered in the prior calendar year, and all of the following for the prior calendar year:

(1) Information regarding institutional branch campuses, including addresses and programs offered at each campus, if applicable;

(2) Information regarding satellite locations, including addresses and with which campus(es) the satellite location is affiliated, if applicable;

(3) Name of institutional accreditors for each branch and satellite campus, and for each such campus at which any programs have programmatic accreditation, the names of the programmatic accreditor for each such program, and effective dates for each programmatic accreditation, if applicable;

(4) Information regarding participation in state and federal student loan and grant programs, including the total amount of funding received from each source for those students enrolled in an approved California school regardless of their state of residency;

(5) Information regarding participation in other public funding programs, including the amount of funding received from each public funding source; for purposes of this section, public funding is any financial aid paid on behalf of students or directly to an institution from any public source, such as the Workforce Investment Act, any veterans' financial aid programs pursuant to Section 21.4253 of Title 38 of the Code of Federal Regulations or any other financial aid program that is intended to help students pay education-related expenses, including tuition, fees, room and board, and supplies for education; and

(6) The total percentage of institutional income that comes from any public funding sources.

(b) In addition to the information required by section 94934 and this section provided under penalty of perjury, the institution shall have annual financial statements prepared for the institution's prior fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover of such statements in conjunction with its annual report. The form, content and mode of preparation of financial statements shall comply with Section 74115 of this Division.

The Bureau may request that the institution immediately make available for inspection to a representative of the Bureau, these financial statements at the offices of the institution.

(c) An institution shall file its annual report by December 1st. The Bureau may extend the period for filing if the institution demonstrates evidence of substantial need but in no case longer than 60 days. The institution shall not change the date of its filing its annual report because of a change in the fiscal year without the Bureau's approval.

(d) The annual report shall be electronically filed by submitting the information required by section 94934 of the Code and this section via the online form provided on the Bureau's website, electronically attaching, as directed, the School Performance Fact Sheet, the enrollment agreement, and the school catalog."

25. California Code of Regulations, title 5, section 71700 states:

"The Bureau may request that an institution document compliance with the standards set forth in the Act and this Division to obtain and maintain an approval to operate."

## FACTUAL BACKGROUND

26. On or about June 28, 2013, the Bureau received an "Application for a Renewal for Approval to Operate and Offer Educational Programs for Non-Accredited Institutions" ("Renewal Application"), application number 26428, from Respondent.

27. On or about July 1, 2013, the Bureau issued a deficiency letter to Respondent. The letter requested the following information: Enrollment Agreements; current reviewed or audited financial statements; and a thirty-five (35) percent late payment penalty fee because the Renewal Application was received more than 90 days after the approval expiration date.

28. On or about July 31, 2013, the Bureau received Respondent's response to the deficiency letter. The following information was included with Respondent's response: a check in the amount of $1,225 for the late penalty fee; and Enrollment Agreements.

29. On or about August 12, 2016, the Bureau issued a second deficiency letter to Respondent. The letter outlined deficiencies in the application and asked Respondent to provide the following: a School Performance Fact Sheet ("SPFS") for the Instructor Program; a corrected SPFS for the Cosmetology, Esthetician, and Manicure Programs; substantiating documentation

pertaining to the SPFS for each educational program; 2013 Annual Report and Financial Statements; 2014 Annual Report and Financial Statements; 2016 Annual/Delinquent Fee; and Student Tuition Recovery Fund Assessment Reporting forms and the STRF fees for the 1st through 4th quarters of the year 2010.

30. On or about October 5, 2016, the Bureau received Respondent's response to the second deficiency letter. The response consisted of the following information: a flash drive containing the Annual Reports for 2013 and 2014; Enrollment Agreements and checklist; and the Catalog and checklist.

31. On or about August 25, 2017, the Bureau sent Respondent a "Notice of Denial" letter outlining many deficiencies and grounds for denial.

32. On or about September 19, 2017, Respondent submitted a request for an appeal.

**FIRST CAUSE FOR DENIAL OF APPLICATION**

**(Failure to Meet Minimum Operating Standards – Failure to Provide a Statement Regarding Provision of the Enrollment Agreement and Disclosures)**

33. Respondent's application is subject to denial under Education Code sections 94891, subdivision (b) and 94906, subdivision (a), in that Respondent has failed to provide a statement to the Bureau indicating how it provides the enrollment agreement, disclosures, and statements to students who are unable to understand the terms and conditions of the enrollment agreement due to English not being their primary language.

34. Complainant incorporates by reference herein Paragraphs 25 through 31, above.

**SECOND CAUSE FOR DENIAL OF APPLICATION**

**(Failure to Meet Minimum Operating Standards – Enrollment Agreement Deficiencies)**

35. Respondent's application is subject to denial under Education Code sections 94891, subdivision (b), 94911, subdivisions (b), (c), and (e)(2), and title 5 of the California Code of Regulations, sections 71475, subdivision (o), 71750, subdivision (c)(3), and 71800, subdivisions (b), (c), (e), and (f) in that Respondent failed to include required information in its enrollment agreements, as set forth in greater detail below.

i. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 71800 subdivision (b), in that Respondent's enrollment agreement failed to clearly identify the time period covered by the enrollment agreement. The enrollment agreement states on page 1 that the period covered by the enrollment agreement for day students is four months from enrollment and six months from enrollment for night or part-time students; however, the period covered by the enrollment agreement is not clearly identified.

ii. Respondent's application is subject to denial under Education Code section 94911, subdivision (b), and title 5 of the California Code of Regulations, section 71800 subdivisions (e) and (f), in that Respondent's enrollment agreement failed to clearly identify whether fees are charged for the following: equipment, uniforms, protective clothing, in-resident housing, tutoring, assessment fees for transfer of credits, and charges paid to an entity other than Respondent that is specifically required for participating in the education program.

iii. Respondent's application is subject to denial under Education Code section 94911, subdivision (b), and title 5 of the California Code of Regulations, section 71800 subdivisions (e)(2) and (e)(11), in that Respondent's enrollment agreement failed to identify whether fees for registration and Student Tuition Recovery Fund are nonrefundable.

iv. Respondent's application is subject to denial under Education Code section 94911, subdivision (c), in that Respondent's enrollment agreement did not capitalize the total charges for the current period of attendance, the estimated total charges for the entire educational program, and the total charges due upon enrollment. Additionally, Respondent failed to include the following underlined information:

- TOTAL CHARGES <u>FOR THE CURRENT PERIOD OF ATTENDANCE</u>
- ESTIMATED TOTAL <u>CHARGE FOR THE ENTIRE EDUCATIONAL PROGRAM</u>
- THE TOTAL CHARGES <u>THE STUDENT IS OBLIGATED TO PAY UPON ENROLLMENT</u>

v. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 71475 subdivision (o), in that Respondent failed to provide the Bureau with an enrollment agreement for the Instructor Program.

vi. Respondent's application is subject to denial under title 5 of the California Code of Regulations, sections 71750, subdivision (c)(3), and 94911, subdivision (e)(2), in that Respondent failed to address in the enrollment agreement whether kits and carrying cases are refundable if students withdraw or cancel prior to issuance of the kits.[2]

36. Complainant incorporates by reference herein Paragraphs 25 through 31, above.

**THIRD CAUSE FOR DENIAL OF APPLICATION**

**(Failure to Meet Minimum Operating Standards – Failure to Provide Reviewed or Audited Financial Statements)**

37. Respondent's application is subject to denial under title 5 of the California Code of Regulations, sections 71475, subdivision (e), 71745, and 74115 in that Respondent submitted a Balance Sheet dated June 21, 2013, and a Statement of Income dated January 1, 2013 through May 31, 2013, but did not provide a reviewed or audited financial statement completed by an Independent Certified Public Accountant.

**FOURTH CAUSE FOR DENIAL OF APPLICATION**

**(Failure to Meet Minimum Operating Standards – Failure to Include Required Information in the Catalog)**

38. Respondent's application is subject to denial under Education Code sections 94909, subdivisions (a)(4), (a)(5), (a)(8)(A) and (B), (a)(9), (a)(15), 94919, subdivision (c), and title 5 of the California Code of Regulations, section 71750, subdivision (c), in that Respondent failed to include required information in the Catalog, as set forth in greater detail below.

i. Respondent's application is subject to denial under Education Code section 94909, subdivision (a)(4), in that Respondent's address where classes are to be held is incomplete, as it is missing the street number.

ii. Respondent's application is subject to denial under Education Code section 94909, subdivision (a)(15), in that Respondent did not include required language that addresses

[2] Page 12 of Respondent's catalog states that each student will receive a complete kit and carrying case at the beginning of mid-point freshman training (approximately 100 hours). Page 1 of the Enrollment Agreement states that these kits are non-refundable.

transferability of credits and credentials. The following bolded and underlined language was not included:

> NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS EARNED AT OUR INSTITUTION
>
> The transferability of credits **<u>you earn</u>** at (name of institution) is at the **<u>complete</u>** discretion of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or certificate) you earn in (name of educational program) is also at the complete discretion of the institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that you earn at this institution are not accepted at the institution to which you seek to transfer, you may be required to repeat some or all of your coursework at that institution. For this reason you should make certain that your attendance at this institution will meet your educational goals. This may include contacting an institution to which you may seek to transfer after attending (name of institution) to determine if your (credits or degree, diploma, or certificate) will transfer.

iii. Respondent's application is subject to denial under Education Code section 94909, subdivision (a)(8)(A), in that Respondent stated the incorrect minimum passing scores for the Wonderlic Basic Skills Test. On page seven of the catalog, Respondent states in Paragraph A that the minimum passing score is 60%. In Paragraph B on page seven, Respondent states that the minimum passing score is 15%. Both stated passing scores are incorrect.

iv. Respondent's application is subject to denial under Education Code section 94909, subdivision (a)(9), in that Respondent's catalog[3] does not state the total charges for a period of attendance and the estimated total charges for the Manicure Program. Page 23 of the catalog states that the total charge for the manicure course is $1275 and the estimated total charges for the Manicure Program is $1975. Therefore, it is not possible to determine the total charges for the Manicure Program due to conflicting information.

v. Respondent's application is subject to denial under Education Code section 94909, subdivision (a)(8)(B), in that Respondent's catalog did not include a statement informing students that the student will be refunded all charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later.

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[3] Respondent submitted an updated catalog on October 5, 2016, in response to the August 12, 2013 deficiency letter.

vi. Respondent's application is subject to denial under Education Code section 94919, subdivision (c) and title 5 of the California Code of Regulations, section 71750, subdivision (c), in that Respondent's catalog did not provide the pro rata refund policy as required.

vii. Respondent's application is subject to denial under Education Code section 94909, subdivision (a)(5), in that Respondent's catalog did not provide a description of the programs offered, the total credit hours required, or include the Instructor Program. In addition, pages 24, 29, and 32 subdivided the curriculum hours for the Cosmetology, Manicure, and Esthetician programs into the following categories of instruction: subject, technical, and practical. However, the hours listed for each instruction type do not match the total hours required for each program.

39. Complainant incorporates by reference herein Paragraphs 25 through 31, above.

**FIFTH CAUSE FOR DENIAL OF APPLICATION**

**(Failure to Meet Minimum Operating Standards – Failure to Submit Complete and Accurate School Performance Fact Sheets)**

40. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivisions (a), (d), (f), (i)(4), (h), (j), (k), (m), and Education Code sections 94910, subdivisions (a), (b), (c), (d), (f), (g), 94912, and 94928, in that Respondent failed to submit a complete and accurate School Performance Fact Sheet ("SPFS") for both 2014 and 2015, as follows:

i. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (a), in that Respondent failed to submit a separate SPFS for each of the Cosmetology, Esthetician and Manicure Programs. Respondent provided a SPFS for 2014-2015 but combined the data for the programs.

ii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (a), in that Respondent failed to submit a SPFS for the Instructor Program.

iii. Respondent's application is subject to denial under Education Code section 94910, subdivision (a), in that Respondent submitted inaccurate information in its SPFS for the Cosmetology Program. Respondent's 2014 SPFS states, under the section entitled "Students

Completing within 100% of published program length" ("100% Completion"), that there were 24 students who began the program but 17 students available for graduation. Students are deemed unavailable for graduation if they are deceased, incarcerated, or called to active military duty, Respondent's report that seven of the original beginning students were unavailable for graduation is not supported by substantiating documentation.

iv. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (h) and Education Code section 94910, subdivision (a), in that Respondent provided inconsistent data as to the 2014 SPFS for the Cosmetology Program, as follows:

• Page two of Respondent's combined SPFS, under "Students completing within 150% of published program length" ("150% completion"), reports there were 12 students who began the Cosmetology Program in 2014; however, page one states that 23 students began the Cosmetology Program in 2014.

• Page two of the 2014 SPFS for the Cosmetology Program states that there were seven students available for graduation, however, on page one, under the 100% Completion section, the number of students available for graduation is listed as 17.

• Under the 150% Completion section, the SPFS reports that there were seven graduates, however, the number of graduates who completed on-time is 17. Adding the on-time graduates with the graduates who completed within 150% gives a total of 24 total graduates for the 2014 school year; however, Respondent reports that 23 students began the program in 2014.

v. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (i)(4), and Education Code section 94910, subdivision (b), in that Respondent submitted inconsistent data in the "Placement Rates" section of the 2014 SPFS for the Cosmetology Program. The Placement Rates section states that there were 35 students who began the Cosmetology Program; however, the 100% Completion section states that 23 students began the Cosmetology Program in 2014. Additionally, the "Placement Rates" sections states that there were 24 students; however, the 100% Completion section states that only 23 students began the program.

vi. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (j), and Education Code section 94910, subdivision (c), in that Respondent submitted inconsistent data in the "Exam Passage Rates" section of the 2014 SPFS for the Cosmetology Program. The "Exam Passages Rates" section states that 24 students took the exam; however, the 100% Completion section states that 23 students began the program. Respondent did not provide substantiating documentation to explain these inconsistent numbers.

vii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (k), and Education Code section 94910, subdivision (d), in that Respondent submitted inconsistent data in the "Annual Salary and Wages" section of the 2014 SPFS for the Cosmetology Program. The "Annual Salary and Wages" section states that 14 graduates were available for employment; however, Respondent also stated that 24 students graduated from the program. Students are deemed "not available for employment" if they are deceased, incarcerated, called to active military duty, continuing their education in an accredited institution, or lack a work visa for the United States. Respondent did not provide substantiating documentation to explain why 10 graduates were students "not available for employment".

viii. Respondent's application is subject to denial under Education Code section 94910, subdivision (a), in that Respondent submitted inaccurate information under the 100% Completion section for the Esthetician program in the 2014 SPFS. The section reports that there were 62 students available for graduation; however, 65 students began the program in 2014. Respondent did not provide substantiating documentation explaining why two students were unavailable for graduation.

ix. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (i)(4) and Education Code section 94910, subdivision (b), in that Respondent submitted inaccurate information for the Esthetician Program in the 2014 SPFS. The "Placement Rates" section reports that 62 students began the program; however, below the 100% Completion section, it states that 65 students began the program. Additionally, the "Placement Rates" section states that there were 60 graduates; however, the 100% Completion

section states that there were 65 students who began the program. Respondent did not provide substantiating documentation to explain the discrepancy.

x. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (j) and Education Code section 94910, subdivision (c), in that Respondent submitted inaccurate information under the "Exam Passage Rates" section for the Esthetician Program in the 2014 SPFS. The "Exam Passage Rates" section states that 54 graduates passed the first available exam; however, the section also reports that 12 students failed the exam. Adding the passing students and failing students results in a total of 66; however, Respondent reported that 65 students began the program. Respondent did not submit substantiating documentation explaining the discrepancy between these numbers.

xi. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (k) and Education Code section 94910, subdivision (d), in that Respondent submitted inaccurate information under the "Annual Salary and Wages" section for the Esthetician Program in the 2014 SPFS. The "Annual Salary and Wages" section reports that there were 54 graduates available for employment; however, Respondent reported that 62 students graduated. Respondent did not provide substantiating documentation to explain why eight graduates were not available for employment.

xii. Respondent's application is subject to denial under Education Code section 94910, subdivision (a), in that Respondent submitted inaccurate information under the 100% Completion section for the Manicure program in the 2014 SPFS. The section reports that there were 73 students available for graduation; however, 75 students began the program in 2014. Respondent did not provide substantiating documentation explaining why two students were unavailable for graduation.

xiii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (i)(4) and Education Code section 94910, subdivision (b), in that Respondent submitted inaccurate information under the "Placement Rates" section for the Manicure Program in the 2014 SPFS. The "Placement Rates" section reports that 72 students graduated from the Manicure Program; however, the 100% Completion section reports that there

were 73 graduates. Respondent did not submit substantiating documentation to explain the discrepancy.

xiv. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (j) and Education Code section 94910, subdivision (c), in that Respondent submitted inaccurate information under the "Exam Passage Rates" section for the Manicure Program in the 2014 SPFS. The "Exam Passage Rates" section reports that 60 graduates passed the first available exam and 13 students failed the first available exam. Adding the passing students and the failing students results in a total of 73 students; however, Respondent reported that 75 students began the Manicure Program in 2014. Respondent did not submit substantiating documentation explaining the discrepancy between these numbers.

xv. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (k) and Education Code section 94910, subdivision (d), in that Respondent submitted inaccurate information under the "Annual Salary and Wages" section for the Manicure Program in the 2014 SPFS. The section reports that 62 graduates were available for employment; however, Respondent reports that 73 students graduated. Respondent did not provide substantiating documentation explaining why 11 graduates were not available for employment.

xvi. Respondent's application is subject to denial under Education Code section 94910, subdivision (a), in that Respondent submitted inaccurate information under the 100% Completion section for the Cosmetology Program in the 2015 SPFS. Respondent reported that 20 students were available for graduation; however, 28 students began the program in 2015. Respondent did not provide substantiating documentation explaining why eight students were unavailable for graduation.

xvii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (h) and Education Code section 94910, subdivision (a), in that Respondent submitted inaccurate information under the 150% Completion section for the Cosmetology Program in the 2015 SPFS, as follows:

- Respondent reported that 15 students began the program; however, the 100% Completion section reports that 28 students began the program.
- Respondent reported that the number of students available for graduation was 10; however, the 100% Completion Section reports that 20 students were available for graduation.
- Under the 150% Completion section, Respondent reported that 10 stdudents graduated; however, 20 graduates completed on time. Adding the on-time graduates with the graduates who completed within 150% results in a total of 30 graduates for 2015; however, Respondent reports that 28 students began the program in 2015. Respondent did not provide substantiating documentation to explain the discrepancy in these numbers.

xviii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (i)(4) and Education Code section 94910, subdivision (b), in that Respondent submitted inaccurate information under the "Placement Rates" section for the Cosmetology Program in the 2015 SPFS. Respondent reported 43 students began the program; however, under the 100% Completion section, Respondent reported that 28 students began the program. Additionally, under the "Placement Rates" section, Respondent reported that 30 students graduated; however, under the 100% Completion section, Respondent reported that 28 students began the program.

xix. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (j) and Education Code section 94910, subdivision (c), in that Respondent submitted inaccurate information under the "Exam Passage Rates" section for the Cosmetology Program in the 2015 SPFS. The "Exam Passage Rates" section reports that 14 graduates passed the first available exam and 8 students failed the first available exam. Adding the passing students and the failing students results in a total of 22 students; however, Respondent reports that 28 students began the Cosmetology Program in 2015. Respondent did not submit substantiating documentation explaining the discrepancy between these numbers.

xx. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (k) and Education Code section 94910, subdivision (d), in that Respondent submitted inaccurate information under the "Annual Salary and Wages" section

for the Cosmetology Program in the 2015 SPFS. Respondent reported that 20 graduates were available for employment; however, Respondent also reported that 28 students began the program. Respondent did not provide substantiating documentation explaining why eight graduates were not available for employment.

xxi. Respondent's application is subject to denial under Education Code section 94910, subdivision (a), in that Respondent submitted inaccurate information under the 100% Completion section for the Esthetician Program in the 2015 SPFS. Respondent reported that 45 students were available for gradation; however, Respondent also reported that 48 students began the program in 2015. Respondent did not provide substantiating documentation explaining why three students were unavailable for graduation due to being deceased, incarcerated, or called to active military duty.

xxii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (i)(4) and Education Code section 94910, subdivision (b), in that Respondent submitted inaccurate information under the "Placement Rates" section for the Esthetician Program for the 2015 SPFS. Respondent reported that 54 students started the program; however, under the 100% Completion section, Respondent reported that 48 students began the program. Additionally, under the "Placement Rates" section, Respondent reported that 52 students graduated; however, under the 100% Completion section, Respondent reported that 48 students began the program.

xxiii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (j) and Education Code section 94910, subdivision (c), in that Respondent submitted inaccurate information under the "Exam Passage Rates" section for the Esthetician Program for the 2015 SPFS. Respondent reported that 50 graduates passed the first available exam and six students failed the first available exam. Adding the passing students and the failing students results in a total of 56 students; however, Respondent reported that 48 students began the Manicure Program in 2014. Respondent did not submit substantiating documentation explaining the discrepancy between these numbers.

xxiv. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (k) and Education Code section 94910, subdivision (d), in that Respondent submitted inaccurate information under the "Annual Salary and Wages" section for the Esthetician Program for the 2015 SPFS. Respondent reported that 48 graduates were available for employment; however, Respondent also reported that 45 students were available for graduation. Respondent did not submit substantiating documentation explaining the discrepancy between these numbers.

xxv. Respondent's application is subject to denial under Education Code section 94910, subdivision (a), in that Respondent submitted inaccurate information under the 100% Completion section for the Manicure Program for the 2015 SPFS. Respondent reported that 62 students were available for graduation; however, 68 students began the program. Respondent did not provide substantiating documentation explaining why six students were unavailable for graduation.

xxvi. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (i)(4) and Education Code section 94910, subdivision (b), in that Respondent submitted inaccurate information under the "Placement Rates" section for the Manicure Program for the 2015 SPFS. Respondent reported that 64 students began the program in 2015; however, the 100% Completion section states that 68 students began the program in 2015. Additionally, the "Placement Rates" section reports that 60 students graduated; however, the 100% Completion section states that 62 students graduated. Respondent did not submit substantiating information explaining these discrepancies.

xxvii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (k) and Education Code section 94910, subdivision (d), in that Respondent submitted inaccurate information under the "Annual Salary and Wages" section for the Manicure Program for the 2015 SPFS. Respondent reported that 52 graduates were available for employment; however, Respondent also reported that 62 students were available for graduation. Respondent did not submit substantiating documentation explaining the discrepancy between these numbers.

xxviii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (d), in that Respondent's SPFS failed to include definitions set forth in both title 5, California Code of Regulation, section 74112, subdivision (d) and Education Code section 94928.

xxix. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74112, subdivision (f), in that Respondent's SPFS failed to include the total charges for a student to complete a program within 100% of the program length and the disclosure that there may be additional charges if the program is not completed on time.

xxx. Respondent's application is subject to denial under Education Code section 94910, subdivision (f) and (g) in that the SPFS did not include the required statements and descriptions set forth in these two subdivisions, which relate to the sources of data and methods used to calculate data required by the Bureau, including job placement rates, license examination passage rates, completion rates.

xxxi. Respondent's application is subject to denial under Education Code section 94912, and California Code of Regulations section 74112, subdivisions (g), (h), (i), and (j) in that the SPFS is missing the required spaces after each section for the student to initial and date; and the statement, "Initial only after you have had sufficient time to read and understand the information," located after the initial and date. The SPFS does not contain a signature block at the end of the document for the student and school official to sign and date the SPFS.

xxxii. Respondent's application is subject to denial under title 5 of the California Code of Regulations, sections 74112, subdivision (m) and 71930, subdivision (e), in that Respondent failed to provide substantiating documentation supporting all data reported on the SPFS and failed to make its required records immediately available for inspection and copying by the Bureau.

41. Complainant incorporates by reference herein Paragraphs 25 through 31, above.

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## SIXTH CAUSE FOR DENIAL OF APPLICATION

**(Failure to Meet Minimum Operating Standards – Failure to Complete Student Tuition Recovery Fund Assessment Reporting Form)**

42. Respondent's application is subject to denial under title 5 of the California Code of Regulations, sections 71485 and 76130, subdivisions (b) and (e), in that Respondent failed to complete the Student Tuition Recovery Fund Assessment ("STRF") Reporting Form and remit applicable fees collected from students for the 1st through 4th Quarters of 2010.

43. Complainant incorporates by reference herein Paragraphs 25 through 31, above.

## SEVENTH CAUSE FOR DENIAL OF APPLICATION

**(Failure to Meet Minimum Operating Standards – Failure to Include Required Information in the Annual Reports for 2013 and 2014)**

44. Respondent's application is subject to denial under title 5 of the California Code of Regulations, section 74110 and Education Code section 94934, in that Respondent failed to complete the Annual Reports for 2013 and 2014, as set forth below. Additionally, Respondent failed to submit an Annual Report, Catalog, Enrollment Agreements, Financials and SPFS for 2015.

i. Annual Report for 2013: Respondent did not complete section 2 (Programs Data) for each educational program offered during the reporting year and failed to submit an Income Statement and Cash Flow Statement as part of the required Financial Statements.

ii. Annual Report for 2014: Respondent did not complete section 2 (Programs Data) for each educational program offered during the reporting year and failed to submit a Balance Sheet and Cash Flow Statement as part of the required Financial Statements.

45. Complainant incorporates by reference herein Paragraphs 25 through 31, above.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Denying the application of Los Angeles Beauty College for a Renewal for Approval to Operate and Offer Educational Programs for Non-Accredited Institutions;

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2. Taking such other and further action as deemed necessary and proper.

DATED: 5-7-18

DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
*Complainant*

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