



Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
P.O. Box 980818, West Sacramento, CA 95798-0818
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NOTICE AND EMERGENCY DECISION

August 15, 2018

OVERNIGHT DELIVERY

Brian Beakley, Owner
American Beauty Institute
15598 Paseo Ajanta
San Diego, CA 92109

Pursuant to California Education Code section 94938, California Code of Regulations, Title 5, section 75150, and article 13 (commencing with section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, the Bureau for Private Postsecondary Education (Bureau) issues the following Emergency Decision:

The Bureau hereby orders American Beauty Institute (Institution) to:

1. **CEASE ENROLLMENT OF ANY NEW STUDENTS IN ALL PROGRAMS AND**
2. **CEASE THE COLLECTION OF TUITION AND FEES FOR ALL INSTITUTIONAL PROGRAMS**

at the following location:

School Code: 81663192
4625 Convoy St., Ste. A
San Diego, CA 92111

This order is effective upon close of business August 27, 2018:

This order is based on an immediate danger to the public health, safety, and welfare. Specifically, the Bureau has determined that:

- As set forth in the attached Declaration of Leslie Feist, there is a substantial failure by the Institution to meet institutional minimum operating standards as required by the California Private Postsecondary Education Act of 2009 and the California Code of Regulations, Title 5.

This circumstance requires immediate action by the Bureau to protect students, prevent misrepresentations to the public, and prevent the loss of public funds or monies paid by students.

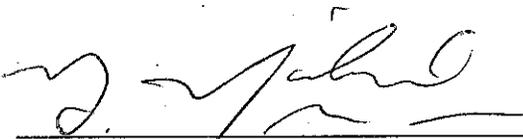
You have the right to be heard before the Director of the Department of Consumer Affairs, or his designee, regarding the allegations in the Emergency Decision prior to the effective date of the Emergency Decision. If you would like to be heard before the Director, please submit a request by fax to Christina Villanueva, Discipline Manager, Bureau for Private Postsecondary Education, 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833, (916) 263-1895 (fax). Alternatively, you may request a hearing before the Director, or his designee, by telephoning Christina Villanueva at (916) 431-6958. Unless the Bureau receives your request by **5:00 p.m.** on **August 22, 2018** you will be deemed to have waived your right to be heard before the Director, or his designee.

If requested, the hearing before the Director of the Department of Consumer Affairs, or his designee, will be held on **August 23, 2018** at **10:00 a.m.** at the Department of Consumer Affairs Legal Affairs Division, located at 1625 North Market Blvd., Suite S-308, Sacramento, CA 95834.

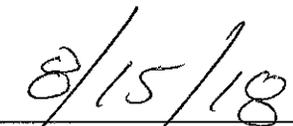
Within 10 days after issuance of the Emergency Decision, the Bureau will file an accusation to revoke the Institution's approval to operate based, in part, on the charges and allegations set forth in the Emergency Decision. The adjudicative proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Upon issuance of the Emergency Decision, you have the right under Government Code section 11460.80 to obtain judicial review of the Decision.

The Emergency Decision, **effective upon close of business August 27, 2018**, shall remain in effect until such time as the Accusation has been fully adjudicated or upon issuance of the final decision following judicial review.



Dr. Michael Marion, Jr., Bureau Chief
Bureau for Private Postsecondary Education



Date

Declaration of Leslie Feist

I, Leslie Feist, declare that if called to testify I would testify competently and relevantly as follows:

1. Since July 2015, I have been an Associate Governmental Program Analyst/Field Investigator for the Bureau for Private Postsecondary Education ("Bureau") with the California Department of Consumer Affairs (DCA). My duties include investigation of institutions approved by the Bureau, including but not limited to reviewing documents and writing investigative reports.

I have personal knowledge of the matters set forth herein.

2. The Bureau has discretion to make an emergency decision to protect the public. California Education Code section 94938 states, in part:

"(a) If the bureau determines that it needs to make an emergency decision to protect students, prevent misrepresentation to the public, or prevent the loss of public funds or moneys paid by students, it may do so pursuant to Article 13 (commencing with Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code."

Title 5, California Code of Regulations Division 7.5, section 75150, states, in part:

- (a) The Bureau may make an emergency decision for temporary, interim relief pursuant to Article 13 (commencing with section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) The Bureau may make an emergency decision pursuant to subdivision (a) where there is an immediate danger to the public health, safety, or welfare that requires immediate action to protect students, prevent misrepresentations to the public, or prevent the loss of public funds or monies paid by students, including but not limited to fraud; a substantial misrepresentation in the institution's Performance Fact Sheet, school catalog, or enrollment agreement; a substantial failure to meet institutional minimum operating standards; failure to meet statutory and regulatory requirements for accreditation; or a substantial failure to obtain a necessary approval or permit from another agency or regulatory body, affecting public health, safety or welfare.

(c) The Bureau may order temporary, interim relief in the form of some or all of the following measures:

- (1) cease or limit enrollment of new students;
- (2) cease part or all instruction for some or all programs;
- (3) cease collection of tuition or fees for some or all programs.
- (4) suspend approval or provisional approval to operate or offer any degree programs.”

3. State statutes and regulations require that private postsecondary educational institutions such as American Beauty Institute (ABI) be approved by the Bureau (including all programs offered) and in the case of training programs intended to lead to licensure in cosmetology, estheticians, and manicurists, that those programs also be approved by the California Board of Barbering and Cosmetology (BBC). [See, Ed. Code, §§ 94817, 94886, 94887, 94899; Bus. & Prof. Code, § 7362; Cal. Code Regs., tit. 16, § 941.] ABI is currently approved by the Bureau to offer four non-degree programs which are also approved by BBC, namely Cosmetology (with “Length of Instruction” or “training hours” of 1,600 hours), Barbering (1,500 hours), Esthetician (600 hours), and Manicurist (400 hours). The educational objective for these programs is for the students to complete those training hours prior to taking the BBC licensure exam. [See, Ed. Code, § 94899.] ABI is also currently approved to offer a program in Massage Therapy. [Attached as **Exhibit A** is a true and correct copy of the Bureau’s “Approved Educational Program List” for ABI].

4. To ensure public protection, the Bureau’s law mandates that institutions meet and maintain institutional minimum operating standards, which include ensuring that the content of each educational program achieves its stated objective, that it employs properly qualified staff, that upon satisfactory completion of an educational program, the institution gives students a document signifying the completion, and that adequate records and transcripts are maintained. [See, Ed. Code § 94885.] Minimum operating standards are not met where instruction of the

approved program is not the central focus of the resources and services of the institution, or where direct instruction does not include the physical presence of students and faculty at the same location. [See, Title 5, Code of Regulations, § 71715.] Further, it is a prohibited business practice to make an untrue or misleading statement related to an attendance record, record indicating student completion, placement, employment, salaries, or financial information, [See, Ed. Code, § 94897.] At all times, the institution must be able to document that it can maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater. [See, Title 5, Code of Regulations, § 71745(a)(1)(6).]

5. As set forth below, my investigation of ABI, which included a physical inspection of the ABI campus on April 25, 2018, demonstrates that there is an immediate danger to the public health, safety, and welfare that warrants an order to prevent ABI from enrolling and collecting tuition from any students pending the outcome of an action to revoke ABI's approval to operate by the Bureau. In sum, my investigation found that, among other violations of law, ABI is collecting monies from students for educational programs without offering instruction in those programs.

6. Specifically, the following forms the basis for the Bureau's Emergency Decision:

a. On March 1, 2018, I was assigned to investigate ABI. Part of my investigation was concurrently conducted with an unannounced compliance inspection by Bureau staff on April 25, 2018. During my investigation, I reviewed the institution's website and collected photographs, school advertisements, the 2017 financial statements, School Performance Fact Sheets (SPFS) for each program for the 2015/2016 reporting year, and seven student files, and interviewed students enrolled in the Esthetician program and institution administrators.

b. On or about April 2018, the institution failed to ensure that instruction is the primary focus of the services and resources of the school. During the Bureau's onsite investigation on April 25, 2018, I and other Bureau staff observed a student performing an eyelash service on a consumer without any instructor supervision. Students made statements to me that they frequently arrived at school hours before instructors on site to provide services to consumers or to participate in self-directed study. Students stated that they frequently had to do independent study due to lack of instructors available, and there was no organization to

classroom time. Instructors also provided statements to me that they are not utilizing the required BBC curriculum to teach students.

c. Indeed, the institution's Director advised me that the institution has never, in the history of their operating, provided the required curriculum components. Therefore, I have concluded that from about January 2016 through April 2018, the institution made false statements regarding the educational curriculum that was provided to students and submitted these false statements to the BBC on "proof of training" documents, certifying educational services that they did not in fact provide.

d. On or about April 2018, the institution advertised on their website that students who enroll in the Massage Therapy program will be eligible to sit for state licensure when in fact there is no state license exam required for that program.

e. On or about April 2018, the institution signed a document representing that a student had completed their education when in fact they had not. The student was still in attendance at the institution during the April 25, 2018 onsite investigation, however, the student file contained a document that stated they had completed their educational program.

f. On or about January 2017 through December 2017, the institution failed to maintain financial resources that demonstrate the institution meets the 1.00 to 1.25 assets to liabilities ratio required by the Bureau.

g. On or about April 2018, the institution advertised on their website and in promotional materials on campus several programs for which they do not currently have Bureau approval to offer. The institution failed to receive Bureau approval to offer the following courses prior to advertising them as offered programs: Microblading, Makeup, Eyelash Extensions.

h. On or about April 2018, the institution failed to maintain the level of administrative staffing required to reflect the purpose, size and educational operations at its location. The institution did not maintain a Chief Executive Officer or a Chief Operating Officer on staff, as required, therefore compromising its ability to achieve its mission and educational objectives; it failed to employ a qualified faculty member for a program, Barbering, for which they advertise as a currently offered program; it failed to provide documentation that demonstrates that it employs faculty that are qualified to provide instruction for the approved programs; and it failed to provide faculty file documents showing the names and addresses of each faculty member, as well as their educational qualifications. From about January 2016 through April 2018, the institution continued to enroll students absent the appropriate faculty to accomplish the educational goals of the institution. During the April 25, 2018 onsite investigation, Bureau staff observed that no instructor was present during a period that the school was open and educational services were taking place. The students provided a statement that they frequently attend school during periods of time where there is no instructor available.

i. On April 25, 2018, during a visit to the Institution's main campus, I observed that the Institution failed to maintain and properly store records, as follows:

- (1) The institution failed to provide or maintain permanent transcripts for any students who enrolled at the institution.
- (2) The institution failed to maintain proper academic or financial documentation for all students currently enrolled and for students enrolled in the last five years.
- (3) The institution failed to maintain a student file for every student who enrolled at the institution.
- (4) The institution was unable to produce instruments of indebtedness and documents showing monies received on behalf of the student.

7. I have recommended to Bureau management that the Bureau take disciplinary action against ABI to prevent the institution from causing further or future student harm. This recommendation was based on the determination of eighteen (18) violations of the California Education Code and Title 5, Code of Regulations, coupled with my findings that instruction is not the central focus of ABI's resources.

8. With the conclusion of the Bureau's investigation, the Bureau believes that there is an immediate danger to the public health, safety, or welfare that requires immediate action to protect students, prevent misrepresentations to the public, and prevent the loss of monies paid by students. The Bureau has a duty to ensure that ABI continues to meet minimum operating standards. The Bureau believes that an emergency decision is necessary to prevent new student enrollments/tuition collections by ABI. ABI is not meeting minimum operating standards as required by Education Code section 94885, and is in violation of other laws and regulations. The institution's students are not being provided the training approved by the Bureau, and perform unsupervised cosmetic procedures to the public that may cause consumer harm.

I declare under penalty of perjury under the laws of the State of California that the above statements are true and correct of my personal knowledge.

Executed this 19th day of July 2018 at Sacramento, California.


LESLIE FEIST



Business, Consumer Services, and Housing Agency - Edmund G. Brown Jr., Governor
Bureau for Private Postsecondary Education
 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
 P.O. Box 980818, West Sacramento, CA 95798-0818



Approved Educational Program List

In accordance with the provisions of California Education Code 94866 or 94890, the Bureau for Private Postsecondary Education approves:

American Beauty Institute

*4625 Convoy Street, Suite A & B
 San Diego, CA 92111*

*School Code #: 81663192
 Site Type: Main*

to offer the following program(s)/course(s):

<u>Program Name</u>	<u>Length of Instruction</u>	<u>Program Approved</u>	<u>Program Type</u>	<u>Distance Learning</u>
Barbering	1,500.00 Hours	10/28/2015	Non-Degree	No
Cosmetology	1,600.00 Hours	10/28/2015	Non-Degree	No
Esthetician	600.00 Hours	10/28/2015	Non-Degree	No
Manicurist	400.00 Hours	10/28/2015	Non-Degree	No
Massage Therapy	600.00 Hours	10/28/2015	Non-Degree	No

Non-Degree (Vocational) Programs/Courses: 5
Total Programs/Courses: 5

The program list above represents all currently approved educational programs for this institution. The Main, Branch, or Satellite locations of this institution may offer any subset of this list.

Robert Bayles, Education Administrator

This document is valid if all fees are current. Subject to earlier termination in accordance with the law.