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8
9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

14 **JADE BEAUTY AND BARBER COLLEGE**

15 Application for Renewal of Approval to
16 Operate an Institution Non-Accredited

17 Institution Code No. 90323886

18 Respondent.

Case No. BPPE23-0160

OAH No. 2023080246

**SECOND AMENDED STATEMENT OF
ISSUES**

19 **PARTIES**

20 1. Deborah Cochrane (Complainant) brings this Second Amended Statement of Issues
21 solely in her official capacity as the Chief of the Bureau for Private Postsecondary Education,
22 Department of Consumer Affairs.

23 2. On or about November 18, 2020, the Bureau for Private Postsecondary Education
24 received an Application for Renewal of Approval to Operate an Institution Non-Accredited
25 (Renewal Application) from Respondent Jade Beauty and Barber College (Respondent).¹ On or
26 about August 26, 2020, Respondent signed its Renewal Application, under penalty of perjury, that

27 _____
28 ¹ The Bureau previously granted Respondent approval to offer and provide instruction in the
following programs: Barber, Cosmetology, Cosmetology/Barber Instructor, Esthetician,
Manicurist, Massage Therapy.

1 the answers it provided in the Application and the documents attached to that Renewal
2 Application were true and correct. Between December 2020 and November 2022, the Bureau and
3 Respondent conferred regarding the Renewal Application, including Respondent's transmittal of
4 additional application materials to cure deficiencies in the Renewal Application. On or about
5 February 7, 2023, the Bureau denied the Renewal Application via a Notice of Denial of
6 Application for Renewal of Approval to Operate. On or about February 17, 2023, Respondent
7 submitted to the Bureau a request for administrative hearing.

8 3. On or about August 1, 2023, the Bureau filed an initial Statement of Issues regarding
9 the deficiencies in Respondent's Renewal Application. Nearly four months later, on or about
10 November 29, 2023, Respondent offered the Bureau documents and information intended to cure
11 the deficiencies in its Renewal Application. The Bureau staff timely reviewed Respondent's
12 documents and information, and concluded that Respondent's amended Renewal Application did
13 not comply with applicable statutes and regulations. Based on those deficiencies, on or about
14 January 12, 2024, the Bureau filed a First Amended Statement of Issues.

15 4. On or about February 4, 2024, the Respondent offered the Bureau further documents
16 and information to cure the deficiencies in its Renewal Application. The Bureau staff again
17 timely reviewed Respondent's documents and information; and concluded, as set forth more fully
18 below, that Respondent's amended Renewal Application does not comply with applicable statutes
19 and regulations.

20 **JURISDICTION**

21 5. This Second Amended Statement of Issues is brought before the Director of the
22 Department of Consumer Affairs (Director) for the Bureau for Private Postsecondary Education,
23 under the authority of the following laws. All section references are to the Education Code unless
24 otherwise indicated.²

25 ///

26 ///

27 ///

28 ² All statutes and regulations cited are the versions in effect at the time the Bureau issued its
Notice of Denial of Application for Renewal of Approval to Operate (February 7, 2023).

1 6. Section 94817 states:

2 “‘Approval to operate’ or ‘approval’ means the authorization pursuant to this chapter to
3 offer to the public and to provide postsecondary educational programs, as well as the written
4 document issued to an institution signifying its approval to operate.”

5 7. Section 94817.5 states:

6 “‘Approved to operate’ or ‘approved’ means that an institution has received authorization
7 pursuant to this chapter to offer to the public and to provide postsecondary educational
8 programs.”

9 8. Section 94885, subdivision (a) states, in part:

10 “(a) The bureau shall adopt by regulation minimum operating standards for an institution
11 that shall reasonably ensure that all of the following occur:

12 “(1) The content of each educational program can achieve its stated objective.

13 . . .

14 “(3) The facilities, instructional equipment, and materials are sufficient to enable students
15 to achieve the educational program’s goals.

16 . . .

17 “(5) The directors, administrators, and faculty are properly qualified.

18 . . .

19 “(9) The institution is maintained and operated in compliance with this chapter and all other
20 applicable ordinances and laws.”

21 9. Section 94886 states:

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

26 10. Section 94887 states:

27 “An approval to operate shall be granted only after an applicant has presented sufficient
28 evidence to the bureau, and the bureau has independently verified the information provided by the

1 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
2 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
3 for an approval to operate if the application does not satisfy those standards.”

4 11. Section 94891 states, in part:

5 “(a) The bureau shall adopt by regulation the process and procedures whereby an institution
6 may obtain a renewal of an approval to operate.

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

9 “(c)(1) An institution that is denied renewal of an approval to operate may file an appeal in
10 accordance with the procedures established by the bureau pursuant to Section 94888.

11 “(2) An institution that has filed an appeal of a denial of a renewal application may continue
12 to operate during the appeal process, but must disclose in a written statement, approved by the
13 bureau, to all current and prospective students, that the institution’s application for renewal of
14 approval to operate was denied by the bureau because the bureau determined the application did
15 not satisfy the requirements to operate in California, that the institution is appealing the bureau's
16 decision, and that the loss of the appeal may result in the institution’s closure.

17”

18 **STATUTORY PROVISIONS**

19 12. Section 94834 states:

20 “‘Distance education’ means transmission of instruction to students at a location separate
21 from the institution.”

22 13. Section 94837 states:

23 “‘Educational program’ means a planned sequence composed of a set of related courses or
24 modules, or a single course or module if not offered as a component of a set of related courses or
25 modules, that provides education, training, skills, or experience, or a combination of these, except
26 that ‘educational program’ does not include a single course, workshop, seminar, continuing
27 education course, or other instruction that consists of 32 hours of instruction or less that is not
28 designed to lead to employment.”

1 14. Section 94893 states:

2 “If an institution intends to make a substantive change to its approval to operate, the
3 institution shall receive prior authorization from the bureau. Except as provided in subdivision (a)
4 of Section 94896, if the institution makes the substantive change without prior bureau
5 authorization, the institution's approval to operate may be suspended or revoked.”

6 15. Section 94894, subdivision (g) states:

7 “The following changes to an approval to operate are considered substantive changes and
8 require prior authorization:

9 ...

10 “(g) A significant change in the method of instructional delivery.”

11 16. Section 94895 states:

12 “The bureau shall, by January 1, 2011, adopt by regulation the process and procedures
13 whereby an institution shall seek authorization for substantive changes to an approval to operate.”

14 17. Section 94897, subdivisions (q) and (u) state:

15 “An institution shall not do any of the following:

16 ...

17 “(q) In any manner commit fraud against, or make a material untrue or misleading
18 statement to, a student or prospective student under the institution's authority or the pretense or
19 appearance of the institution's authority.

20 ...

21 “(u) Fail to maintain policies related to compliance with this chapter or adhere to the
22 institution's stated policies.”

23 18. Section 94898, subdivision (a) states:

24 “(a) An institution shall not merge classes unless all of the students have received the same
25 amount of instruction. This subdivision does not prevent the placement of students, who are
26 enrolled in different educational programs, in the same class if that class is part of each of the
27 educational programs and the placement in a merged class will not impair the students' learning
28 of the subject matter of the class.”

1 21. California Code of Regulations, title 5, section 71400.5, subdivision (a) states:
2 “(a) The inclusion of false or misleading information, or the intentional or negligent
3 omission of pertinent information on any application may result in the denial of the application or
4 a delay in processing, and may be grounds for action pursuant to Article 18 of the Act.”

5 22. California Code of Regulations, title 5, section 71405 states:
6 “(a) If, after the submission of an application but prior to the Bureau's decision to approve
7 or deny an approval to operate, there is any material change in circumstances affecting any
8 information contained in the application or submitted by the institution in support of the
9 application, the institution shall immediately inform the Bureau in writing.

10 “(b) For the purposes of this section, a change in circumstance is “material” if, without the
11 inclusion of the new or different information into the application, the information contained in or
12 the supporting documentation to the application would be false, misleading, or incomplete.”

13 23. California Code of Regulations, title 5, section 71475 states, in part:

14 ...

15 “(d) In addition to the form required in (b), the institution shall submit all information
16 required by section 71100(b), and the appropriate renewal fee as provided in Sections
17 94930.5(b)(1) and 94930.5(b)(2) of the Code, as applicable, to the Bureau. Except for the
18 financial statements required by subdivision (e) of this section and the statement required in
19 subdivision (f) of this section, if the information required in order to renew its approval to operate
20 is substantially similar to the information submitted by the institution in its last renewal
21 application, or initial application if it is the first renewal, the institution may state that there are no
22 substantial changes.

23 ...

24 “(t) In addition, the institution shall list in the application, the following for each
25 educational program offered unless there have been no substantive changes since the last
26 submission. If there have been no substantive changes made the institution may so state and is not
27 required to provide documentation.

28 ...

1 “(7) Whether the educational program is designed to fit or prepare students for employment
2 in any occupation. If so, the application shall identify each occupation and job title to which the
3 institution represents the educational program will lead.

4 “(v) If the institution offers an educational program, or a portion of it, in a language other
5 than English, the application shall contain a description of all of the following for each
6 educational program or portion thereof unless there have been no substantive changes since the
7 last submission. If there have been no substantive changes made the institution may so state and is
8 not required to provide documentation.

9 “(1) The language in which each educational program will be offered.

10 “(2) A statement that the institution has contracted with sufficient duly qualified faculty
11 who will teach each language group of students.

12 “(3) The language of the textbooks and other written materials to be used by each language
13 group of students

14 “(y)(1) For each program offered, the application shall contain a description of the facilities
15 and the equipment which is available for use by students at the main, branch, and satellite
16 locations of the institution unless there have been no substantive changes since the last
17 submission. If there have been no substantive changes made the institution may so state and is not
18 required to provide documentation.

19 . . .

20 “(3) The application shall include, in addition to the description of the physical facilities,
21 building diagrams or campus maps to assist the Bureau in locating these facilities. The diagrams
22 or maps shall identify the location of classrooms, laboratories, workshops, and libraries unless
23 there have been no substantive changes since the last submission. If there have been no
24 substantive changes made the institution may so state and is not required to provide
25 documentation.

26 . . .

27 “(z) The application shall include a description of library holdings, services, and other
28 learning resources, including policies and procedures for supplying them to students who do not

1 receive classroom instruction. The description need not consist of a list of each holding. The
2 description shall include an explanation of how the library and other learning resources are
3 sufficient to support the instructional needs of students and, if no facilities exist at the institution,
4 how and when students may obtain access to a library and other learning resources as required by
5 the curriculum unless there have been no substantive changes since the last submission. If there
6 have been no substantive changes made the institution may so state and is not required to provide
7 documentation.

8 . . .

9 “(kk) An incomplete application filed under this section will render the institution ineligible
10 for renewal.”

11 24. California Code of Regulations, title 5, section 71600, subdivision (a) states:

12 “(a) An institution seeking to make a significant change in its method of instructional
13 delivery shall complete the ‘Significant Change in Method of Instructional Delivery’ form (INS
14 rev. 2/10) to obtain prior authorization. For the purposes of this section a ‘significant change in
15 instructional delivery’ is any change that alters the way students interact with faculty or access
16 significant equipment. The form shall be submitted to the Bureau along with the appropriate fee
17 as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885
18 of the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and for
19 an institution approved under section 94890 of the Code, it shall be signed and dated by the
20 signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto
21 shall be declared to be true under penalty of perjury, in the following form:

22 ‘I declare under penalty of perjury under the laws of the State of California that the
23 foregoing and all attachments are true and correct.

24 _____
25 (Date) (Signature)”

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

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

1 26. California Code of Regulations, title 5, section 71705 states:

2 “An institution shall have a written statement of its mission and the objectives for each
3 educational program. The mission and the objectives shall indicate the kind of education offered,
4 for whom the instruction is intended and the expected outcomes for graduates.”

5 27. California Code of Regulations, title 5, section 71710 states, in part:

6 “In order to meet its mission and objectives, the educational program defined in section
7 94837 of the Code shall be comprised of a curriculum that includes:

8 “(a) those subject areas that are necessary for a student to achieve the educational objectives
9 of the educational program in which the student is enrolled;

10 “(b) subject areas and courses or modules that are presented in a logically organized manner
11 or sequence to students;

12 “(c) course or module materials that are designed or organized by duly qualified faculty.

13 For each course or module, each student shall be provided with a syllabus or course outline that
14 contains:

15 . . .

16 “(2) a statement of educational objectives;

17 “(3) length of the educational program;

18 “(4) sequence and frequency of lessons or class sessions;

19 “(5) complete citations of textbooks and other required written materials;

20 . . .

21 “(7) instructional mode or methods.

22 ”

23 28. California Code of Regulations, title 5, section 71715 states, in part:

24 . . .

25 “(b) The institution shall document that the instruction offered leads to the achievement of
26 the learning objectives of each course.

27 . . .

28 ////

1 “(d) Distance education as defined in section 94834 of the Code, does not require the
2 physical presence of students and faculty at the same location but provides for interaction
3 between students and faculty by such means as telecommunication, correspondence, electronic
4 and computer augmented educational services, postal service, and facsimile transmission. In
5 addition to the other requirements of this chapter and the Act, an institution offering distance
6 education shall:

7 . . .

8 “(3) ensure that the materials and programs are current, well organized, designed by faculty
9 competent in distance education techniques and delivered using readily available, reliable
10 technology;

11”

12 29. California Code of Regulations, title 5, section 71735, subdivision (a) states:

13 “(a) An institution shall have sufficient facilities and necessary equipment to support the
14 achievement of the educational objectives of all of the courses and educational programs in which
15 students are enrolled. If an institution represents that the educational service will fit or prepare a
16 student for employment in a particular occupation or as described in particular job titles, either of
17 the following conditions shall be met:

18 “(1) The equipment used for instruction or provided to the student shall be comparable in
19 model type or features to equipment generally used in those occupations or job titles at the time
20 the instruction is offered.

21 “(2) The institution shall establish that the equipment used for instruction or provided to a
22 student is not obsolete and is sufficient for instructional purposes to reasonably assure that a
23 student acquires the necessary level of education, training, skill, and experience to obtain
24 employment in the field of training and to perform the tasks associated with the occupation or job
25 title to which the educational program was represented to lead.”

26 30. California Code of Regulations, title 5, section 71740, subdivisions (b) and (c) state:

27 “(b) An institution shall provide or make provisions for the library and other learning
28 resources needed to support each educational program it offers, including resources such as

1 reference works, periodicals, monographs, and media and equipment specific to the educational
2 programs offered.

3 “(c) An institution shall describe onsite library and other learning resources, if any, that
4 enable students to pursue inquiries, searches for information and documentation, and assignments
5 connected with their study programs.”

6 31. California Code of Regulations, title 5, section 71770, subdivision (a) states, in part:

7 “(a) The institution shall establish specific written standards for student admissions for each
8 educational program. These standards shall be related to the particular educational program. An
9 institution shall not admit any student who is obviously unqualified or who does not appear to
10 have a reasonable prospect of completing the program. . . .”

11 32. California Code of Regulations, title 5, section 71810, subdivision (b)(4) states:

12 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
13 all of the following:

14 . . .

15 “(4) Language proficiency information, including: (A) the level of English language
16 proficiency required of students and the kind of documentation of proficiency, such as the Test of
17 English as a Foreign Language (TOEFL), that will be accepted; and (B) whether English
18 language services, including instruction such as ESL, are provided and, if so, the nature of the
19 service and its cost;”

20
21 **FACTUAL BACKGROUND, PART I**
(FALSE AND MISLEADING REPRESENTATIONS)

22 ***Part I, Section A: Respondent Falsely Represented that it Offers Instruction Only in English***

23 33. Respondent represented to the Bureau that it offers instruction only in English. In
24 particular:

25 a. In its Renewal Application, Respondent stated, under penalty of perjury, that it
26 does not offer instruction in a language other than English.

27 b. In addition, Respondent attached to its Renewal Application a student catalog
28 that reads, in part: “Class instruction is given in English[.] Jade Beauty and Barber College does

1 not provide English as a second language instruction[.] The language proficiency in English
2 should be equivalent to 10th grade level and up.”

3 c. In the process of attempting to cure deficiencies in its Renewal Application, in
4 versions of the catalog Respondent submitted to the Bureau on or about March 20, 2021; April
5 10, 2021; and November 21, 2022, Respondent made the same representation: “Class instruction
6 is given in English. Jade Beauty and Barber College does not provide English as a second
7 language instruction. The language proficiency in English should be equivalent to 10th grade
8 level and up.”

9 34. Contrary to these representations, Respondent offers instruction in a language other
10 than English. In particular, during an onsite quality review visit on October 21, 2022, Bureau
11 staff witnessed theory instruction provided in Vietnamese.³ When Bureau staff sought to confer
12 with students, twenty-three of the twenty-six students in attendance sought from Bureau staff a
13 Vietnamese-language survey to provide feedback, and most required a translator to communicate
14 with Bureau staff.

15 ***Part I, Section B: Respondent Repeatedly Declined to Address the Bureau’s Concerns***
16 ***Regarding Respondent’s Misrepresentations***

17 35. On or about November 29, 2023, Respondent provided the Bureau with documents
18 and information to cure the deficiencies in its Renewal Application. These materials state, in
19 part, “Currently Jade College offers tutoring in Vietnamese Language for students who need the
20 assistance.” But the institution did not address the observations of classroom instruction in
21 Vietnamese on October 21, 2022, which occurred prior to the Bureau’s denial of the Renewal
22 Application.

23 Respondent also has not explained what has become, since that time, of Vietnamese
24 students who were enrolled in its programs and who do not have a sufficient mastery of English
25 to receive instructional hours in a language other than Vietnamese. No amount of tutoring will
26 make up for students receiving instruction in a language they do not understand.

27
28 ³ Adding Vietnamese as a language for instruction is a significant change that requires Bureau approval pursuant to California Code of Regulations, title 5, section 71600, subdivision (a).

1 36. On or about February 4, 2024, Respondent provided the Bureau with further
2 documents and information to cure the deficiencies in its Renewal Application. In those
3 documents, Respondent stated that all instructional materials, textbooks and instruction are in
4 English at this time. However, the current application form (Section 17: Faculty) additionally
5 indicates there have been no substantial changes to faculty (and no new California Board of
6 Barbering and Cosmetology program faculty have been identified), and faculty observed and
7 interviewed during the unannounced campus visit (10/21/22) were teaching class in the language
8 of Vietnamese. Two of the three instructors who were present that day, when interviewed, spoke
9 little English and were only observed to competently instruct in Vietnamese.

10 It does not appear that Respondent has employed sufficient duly qualified faculty to instruct
11 in English. Moreover, it remains true that the current student population is not able to learn
12 sufficiently in the language of English as Respondent's Application Supplement response
13 confirms, "It is true that some students speak little English."

14 ***Part I, Section C: Rather than Addressing the Bureau's Concerns, Respondent Took Aim at***
15 ***Applicable Statutes and Regulations***

16 37. In the documents Respondent provided to the Bureau on or about February 4, 2024,
17 Respondent stated: "It is unreasonable to require the school to be the arbiter of whose English
18 skills are sufficient to be enrolled." First, this statement attempts to mischaracterize the basis for
19 the Bureau's concern. The Bureau did not witness tutoring in Vietnamese or even a few students
20 lacking English-language proficiency. The Bureau witnessed classroom instruction in
21 Vietnamese, most of the students present in that class only spoke Vietnamese, and two of the
22 three instructors present that day spoke little English.

23 Second, Respondent's position is contrary to applicable statutes and regulations. Pursuant
24 to these laws, Respondent is required to be the author of its own policy about English proficiency
25 at its school, and to enforce that policy. In particular, California Code of Regulations, title 5,
26 section 71810, subdivision (b)(4) states that the school catalog shall contain:

27 Language proficiency information, including: (A) the level of English language
28 proficiency required of students and the kind of documentation of proficiency,
 such as the Test of English as a Foreign Language (TOEFL), that will be accepted

1 and; (B) whether English language services, including instruction such as ESL,
2 are provided and, if so, the nature of the service and its cost.
3 (Cal. Code Regs., title 5, § 71810, subd. (b)(4).) Respondent is required to enforce its own
4 published policy, pursuant to Education Code section 94897, subdivision (u). Also, California
5 Code of Regulations, title 5, section 71770, subdivision (a) reads, in part, that Respondent “shall
6 not admit any student who is obviously unqualified or who does not appear to have a reasonable
7 prospect of completing the program”

8 **FIRST CAUSE FOR DENIAL OF APPLICATION**

9 (False or Misleading Information, or
10 Intentional or Negligent Omission of Pertinent Information -
11 Representations Regarding Language of Instruction)

12 38. Respondent’s Renewal Application is subject to denial based on its inclusion of false
13 or misleading information or the intentional or negligent omission of pertinent information in
14 violation of California Code of Regulations, title 5, section 71400.5, subdivision (a). (Educ. Code
15 § 94885, subd. (a)(9) and 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71100; 71400.5, subd.
16 (a); 71405; 71475, subd. (d); and 71700.) The circumstances are set forth in paragraphs 33
17 through 37, above.

18 **SECOND CAUSE FOR DENIAL OF APPLICATION**

19 (Failure to Provide Description of Instruction in Language Other than English)

20 39. Respondent’s Renewal Application is subject to denial based on its failure to include
21 disclosures related to the language(s) in which Respondent offers its educational programs.
22 (Educ. Code §§ 94885, subs. (a)(1), (a)(3), (a)(5) and 94891, subd. (b); and 94897, subd. (u);
23 and Cal. Code Regs., title 5, §§ 71475, subs. (v)(1), (v)(2), and (v)(3), and (kk); 71700; 71770,
24 subd. (a); and 71810, subd. (b)(4).) In particular, as described in paragraphs 33 through 37,
25 above:

26 a. The Renewal Application omits that educational programs are offered in
27 Vietnamese, in violation of California Code of Regulations, title 5, section 71475, subdivision
28 (v)(1).

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FACTUAL BACKGROUND, PART II
(INSTRUCTION AND DEGREES OFFERED)

Part II, Section A: Distance Education Instruction

42. The Bureau previously approved Respondent to offer and provide distance education⁵ via a “hybrid course (theory only)” online method of instruction in the following programs: Barber, Cosmetology, Cosmetology/Barber Instructor, Esthetician, and Manicurist. In its Renewal Application, Respondent seeks to continue to offer and provide these programs via distance education. But Respondent did not provide an explanation of how or where students will access theory materials online. Nor did Respondent identify online theory instruction resources which are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology. Although the Bureau requested that Respondent “[p]rovide log-in access to the institution’s distance education curriculum,” Respondent only provided a screenshot of its Learning Management System (LMS) portal landing page. Accordingly, the Bureau could not establish if Respondent would or could offer legally compliant distance education.

43. On or about November 29, 2023, Respondent provided the Bureau with documents and information to cure the deficiencies in its Renewal Application. But Respondent did not provide the Bureau with access to its online method(s) of instruction for the Bureau to review. In addition, the catalog Respondent provided does not clearly describe the online method(s) of instruction it would offer to students.

44. On or about February 4, 2024, Respondent finally provided the Bureau with access to its online digital platform (via a software program called CIMA by Milady) related to Respondent’s Barber online theory materials. However, due to inconsistent descriptions of the institution’s methods of instruction, it remains unclear what role CIMA materials play in the delivery of theory instruction. For example, it remains unclear whether or not there are livestreamed lectures for the delivery of theory instruction to all hybrid students. The Barber syllabus states, “Online synchronous meeting instruction replicates live, traditional coursework as

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⁵ Section 94834 defines “distance education” as “transmission of instruction to students at a location separate from the institution.”

1 closely as an online class can. Online instructional methods support real-time learning and
2 discussion.”

3 The Barber curriculum document additionally states, “Students can choose to learn theory
4 on-campus or via online synchronous meeting. (Led by an instructor).” The catalog mirrors these
5 statements as well as stating, “The hybrid version of the core program offers a variety of
6 prescheduled, synchronous classes every week. Students have the freedom to join as many
7 classes as they want” (pg. 8). However, no information on how to access livestream lectures is
8 provided in the syllabus, curriculum, or catalog.

9 Also, the catalog indicates, “Jade College will not count cumulated hours on the online
10 system, instead credits are earned by finishing required assignments,” and the “Announcement to
11 Hybrid Students” document posted in the CIMA LMS indicates, “completing the final test is how
12 to get credited hours for hybrid students;” importantly, this document also makes no reference to
13 livestreamed classes but only describes how students will interact with the learning materials in
14 the LMS.

15 The Bureau cannot understand the organization of distance education program components
16 and when and how all theory instruction hours for hybrid students are received and/or earned.

17 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

18 (Instruction – Distance Education)

19 45. Respondent’s Renewal Application is subject to denial in that Respondent failed to
20 ensure that its distance education materials and programs are current, well-organized, designed by
21 faculty competent in distance education techniques and delivered using readily available, reliable
22 technology, as required by California Code of Regulations, title 5, section 71715, subdivision
23 (d)(3). (Educ. Code §§ 94885, subs. (a)(1) and (a)(3) and 94891, subd. (b); and Cal. Code
24 Regs., title 5, §§ 71700 and 71715, subd. (d)(3).) The circumstances are set forth in paragraphs
25 42 and 44, above.

26 ***Part II, Section B: Instruction Unrelated to Educational Program***

27 46. When Bureau staff visited the institution on October 21, 2022, one of the few
28 English-speaking students explained she is a Manicuring student. She confirmed that she attends

1 morning lecture to earn theory hours towards completion of her program, and she “clocked in”
2 accordingly when she arrived. But the scheduled class she was attending was directed at
3 Cosmetology students and was observed in part to include instruction in the area of facial care
4 and make-up (PowerPoint slides were generally in English despite verbal instruction being in
5 Vietnamese; white board notes were alternately in both languages).

6 47. While Cosmetology and Esthetician students may count instruction in such subjects
7 towards their theory hours, the Manicuring curriculum does not include instruction in these areas.
8 Thus, a student was observed to be earning credit for theory hours in a subject unrelated to her
9 program’s intended learning outcomes. A student earning hours for instruction in subjects
10 unrelated to their area of study will result in the student failing to acquire instruction in all of the
11 subject areas that are necessary to achieve the educational objectives of the educational program
12 in which the student is enrolled.

13 48. On or about November 29, 2023, Respondent provided the Bureau with documents
14 and information to cure the deficiencies in its Renewal Application. However, Respondent did
15 not provide any documents demonstrating that the students who, according to Respondent’s
16 proposed catalog: “choose to attend theory lectures on campus,” will not be attending a singular
17 group lecture, aimed collectively at all students enrolled in different programs in the Cosmetology
18 field despite their differing program objectives. Based on Respondent’s November 29, 2023
19 submission, it appears that the practice of combining classes where unnecessary (to some
20 students) subjects are covered, necessary objectives are missed, and career outcomes are
21 jeopardized continues.

22 ***Part II, Section C: Student Attendance***

23 49. Although approximately ninety-five students were enrolled in the institution at that
24 time, during their campus visit on October 21, 2022, Bureau staff observed that only
25 approximately twenty-six students were in attendance (between the hours of 9:30 am and 7:00
26 pm). Thus, only about one quarter of the students were in attendance during theory instruction in
27 the morning (some may have attended offsite using distance education) and during the designated
28 hours of practical instruction offered in the afternoon and evening.

1 ***Part II, Section D: Further Submissions Demonstrating Respondent’s Disorganized***
2 ***Instruction***

3 50. On or about February 4, 2024, Respondent provided the Bureau with documents and
4 information to cure the deficiencies in its Renewal Application. One of these documents, titled
5 “BARBER_SCHEDULE_OF_THE_MONTH_2024” posted in the CIMA LMS, which states,
6 “ANY SUBJECT IN COSMETOLOGY, BARBER, NAIL CARE, AND SKIN CARE IS THE
7 SAME CONCEPT, ALL STUDENTS MAY PUT IN THE SAME CLASS. SCHOOL WILL
8 NOTICE ALL STUDENTS,” demonstrates that Respondent continues to deliver disorganized
9 instruction where not all necessary subject areas and objectives are sure to be covered, and that
10 Respondent is improperly merging classes.

11 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

12 (Educational Program)

13 51. Respondent’s Renewal Application is subject to denial in that Respondent’s
14 educational program is not sufficient to meet its mission and objectives or designed to lead to
15 employment. (Educ. Code §§ 94837; 94885, subds. (a)(1) and (a)(9); 94891, subd. (b); and
16 94898, subd. (a); and Cal. Code Regs, title 5, §§ 71475, subd. (t)(7); 71700; and 71710, subds. (a)
17 and (b)). In particular, as described in paragraphs 46 through 50, above:

18 a. Respondent’s educational program is not sufficient to meet its mission and
19 objectives in that Respondent’s curriculum includes subject areas that are unnecessary for a
20 student to achieve the educational objectives of the educational program in which the student is
21 enrolled, as required by California Code of Regulations, title 5, section 71710, subdivision (a).

22 b. Respondent’s educational program is not sufficient to meet its mission and
23 objectives in that Respondent’s curriculum is not presented in a logically organized manner or
24 sequence to students, as required by California Code of Regulations, title 5, section 71710,
25 subdivision (b).

26 c. Respondent has failed to demonstrate that its educational program is designed
27 to lead to employment, as required by California Code of Regulations, title 5, section 71475,
28 subdivision (t)(7).

1 d. Respondent is merging classes without having provided all of the students the
2 same amount of instruction, in violation of Education Code section 94898, subdivision (a).

3 ***Part II, Section E: Unapproved Distance Education for Non-English Speaking Students***

4 52. As stated in paragraph 42, above, the Bureau previously approved Respondent's use
5 of distance education for the following programs, using Milady (by Cengage) software: Barber,
6 Cosmetology, Cosmetology/Barber Instructor, Esthetician, and Manicurist. To date, the Bureau
7 has not approved of Respondent providing instruction in Vietnamese, including distance
8 education in Vietnamese.

9 53. During the Bureau staff's visit on October 21, 2022, a Vietnamese-speaking student,
10 who did not competently speak English, explained with the assistance of a bilingual student
11 translator that she was enrolled in Respondent's distance education program and she was
12 permitted to earn theory hours by completing bookwork and exams at home.

13 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

14 (Unapproved Method of Instruction)

15 54. Respondent's Renewal Application is subject to denial in that Respondent made a
16 substantive change to its method of instruction without Bureau approval. (Educ. Code §§ 94885,
17 subs. (a)(1), (a)(3), and (a)(9); 94886; 94893; 94894, subd. (g); and 94895; and Cal. Code Regs.,
18 title 5, § 71600, subd. (a) and 71700.) The circumstances are set forth in paragraphs 52 and 53,
19 above.

20 **FACTUAL BACKGROUND, PART III**
21 **(DESCRIPTION OF EDUCATIONAL PROGRAMS)**

22 ***Part III, Section A: Cosmetology or Barber Instructor Syllabus***

23 55. On or about February 4, 2024, Respondent provided the Bureau with further
24 documents and information to cure the deficiencies in its Renewal Application. Respondent's
25 Cosmetology or Barber Instructor syllabus, as amended, contains the following deficiencies:

26 a. Respondent's Cosmetology syllabus describes the program as both 1,000 hours
27 and 1,600 hours.

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1 b. The syllabus does not state the sequence and frequency of lessons or class
2 sessions, as required by California Code of Regulations, title 5, section 71710, subdivision (c)(4).
3 The circumstances are set forth in paragraph 55, subdivision (b), above.

4 c. The syllabus does not contain complete citations of textbooks and other
5 required written materials, as required by California Code of Regulations, title 5, section 71710,
6 subdivision (c)(5). The circumstances are set forth in paragraph 55, subdivision (c), above.

7 d. Respondent has not documented that the instruction offered leads to the
8 achievement of the learning objectives of each course, as required by California Code of
9 Regulations, title 5, section 71715, subdivision (b). The circumstances are set forth in paragraph
10 55, subdivision (d), above.

11 ***Part III, Section B: Massage Therapy Program***

12 57. On or about November 29, 2023 and February 4, 2024, Respondent provided the
13 Bureau with documents and information to cure the deficiencies in its Renewal Application.
14 Respondent’s Massage Therapy program syllabus, as amended, contains the following
15 deficiencies:

16 a. Respondent’s stated educational objectives, on documents Respondent offered
17 or about November 29, 2023, are not consistent with other information presented in the syllabus,
18 where references to barbering, a “Learning Team Charter,” papers (essays) and more do not
19 obviously tie into Massage Therapy.

20 Based on the documents Respondent provided on or about February 4, 2024, there is now a
21 coherent statement (a paragraph) of educational objectives for the Massage Therapy program
22 contained in the syllabus. But the syllabus also contains new erroneous references to a Nail
23 program, Board requirements, and State exam. These elements may tie into the objectives of
24 other programs offered by Respondent, but they do not belong in a massage therapy program that
25 does not lead to licensure by the California Board of Barbering and Cosmetology. Accordingly,
26 the educational objectives remain confused.

27 b. Scheduling information, which Respondent offered on or about November 29,
28 2023, for nearly all programs offered by Respondent, is included on the syllabus, with Morning,

1 Afternoon and Evening hours all included. But it is unclear when, during each day specifically,
2 Massage Therapy students are required to attend. Meeting times are identified for 8:30 a.m. to
3 5:30 p.m., Monday through Friday, and 8:30 a.m. to 6:00 p.m. on Saturday. When reviewing the
4 syllabus in totality, however, students cannot reasonably be expected to attend class for all of the
5 54.5 hours per week referenced.

6 Based on the documents Respondent provided on or about February 4, 2024, the Massage
7 Therapy schedule of classes remains unclear as the syllabus does not clarify the mandatory versus
8 optional practice hours and the syllabus schedule contradicts the catalog's Massage Therapy class
9 schedule.

10 c. The textbook information provided on or about November 29, 2023 was
11 incomplete and is on the subject of barbering rather than massage.

12 Based on the documents Respondent provided on or about February 4, 2024, the Massage
13 Therapy syllabus does not identify the course textbook.

14 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

15 (Description of Educational Programs – Massage Therapy Program Syllabus)

16 58. Respondent's Renewal Application is subject to denial in that Respondent's Massage
17 Therapy program syllabus is not compliant with regulations intended to ensure that Respondent's
18 educational program meets its missions and objectives. (Educ. Code §§ 94855, subd. (a)(1) and
19 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700; 71705; and 71710, subds. (c)(2), (c)(4),
20 and (c)(5).) In particular:

21 a. As stated in paragraph 57, subdivision (a), the syllabus does not contain a
22 statement of educational objectives, as required by California Code of Regulations, title 5, section
23 71710, subdivision (c)(2).

24 b. As stated in paragraph 57, subdivision (b), the syllabus does not state the
25 sequence and frequency of lessons or class sessions, as required by California Code of
26 Regulations, title 5, section 71710, subdivision (c)(4).

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1 c. As stated in paragraph 58, subdivision (c), the syllabus does not contain
2 complete citations of textbooks and other required written materials, as required by California
3 Code of Regulations, title 5, section 71710, subdivision (c)(5).

4 ***Part III, Section C: Distance Education Syllabi***

5 59. Through its Renewal Application, Respondent seeks to obtain Bureau approval to
6 continue to offer many of its programs through distance education via a “hybrid course (theory
7 only)” online method of instruction. Respondent’s syllabi reference this method of instruction,
8 but the syllabi do not describe or identify how Respondent provides distance education. Instead,
9 the syllabi reference “Audios, visual films, tapes, disc, slides.” This statement is contrary to
10 Respondent’s representation to the Bureau that it continues to offer distance education via Milady
11 (by Cengage) software. Accordingly, Respondent’s Renewal Application inconsistently
12 communicates the methods by which the institution provides distance education.

13 60. In addition, none of Respondent’s syllabi offering distance education include
14 complete citations of textbooks to be used. Instead, Respondent only describes supplemental
15 learning materials.

16 61. Respondent apparently declined to address this issue in the documents and
17 information Respondent provided on or about November 29, 2023, as referenced in paragraph 3,
18 above.

19 62. The documents Respondent provided on or about February 4, 2024 present further
20 deficiencies. In particular:

21 a. Respondent’s syllabi and curriculum documents continue to present an
22 inconsistent picture of the institution distance education methods. Specifically, the role and
23 timing of in-class direct instruction, versus livestreamed synchronous instruction, versus
24 asynchronous online learning, remain unclear.

25 b. The Cosmetology syllabus textbook citation is inaccurate – either the edition
26 number or the publication year is incorrect.

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1 **NINTH CAUSE FOR DENIAL OF APPLICATION**

2 (Description of Educational Programs – Distance Education Syllabi)

3 63. Respondent’s Renewal Application is subject to denial in that Respondent’s syllabi
4 offering distance education are not compliant with regulations intended to ensure that
5 Respondent’s educational program meets its missions and objectives. (Educ. Code §§ 94855,
6 subd. (a)(1) and 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700 and 71710, subds. (c)(5)
7 and (c)(7).) In particular:

8 a. The syllabi do not state instructional mode or methods, as required by
9 California Code of Regulations, title 5, section 71710, subdivision (c)(7). The circumstances are
10 set forth in paragraphs 59 through 62, above.

11 b. The syllabi do not contain complete citations of textbooks and other required
12 written materials, as required by California Code of Regulations, title 5, section 71710,
13 subdivision (c)(5). The circumstances are set forth in paragraphs 59 through 62, above.

14 **FACTUAL BACKGROUND, PART IV**
15 **(FACILITIES AND EQUIPMENT)**

16 ***Part IV, Section A: Respondent’s Inaccurate Description of Facilities***

17 64. During their October 21, 2022 campus visit, Bureau staff found that Respondent’s
18 campus diagram/map is not consistent with how the space is actually used. In particular:

19 a. The nail care area was actually used as lockers and storage (including large
20 precariously stacked boxes).

21 b. Students were setting up for Manicuring practicals on the main floor walkway
22 adjacent to the main lecture room.

23 c. While a separate eating area is identified in the catalog, students were observed
24 eating lunch in the same area as practicals subsequently took place.

25 65. Because Respondent apparently declined to address this issue in the documents it
26 provided on or about November 29, 2023 and on or about February 4, 2024, the Bureau reviewed
27 the description Respondent offers in its catalog (at page 5). That description indicates that
28 “lecture rooms, clinic areas, treatment rooms, classrooms” are among the spaces made available

1 for students. The campus diagram Respondent provided identifies several classrooms, but there
2 are no distinct or separate lecture rooms, clinic areas, or treatment rooms as implied by the
3 catalog description. The facility description provided in the catalog is too embellished to be
4 considered accurate.

5 **TENTH CAUSE FOR DENIAL OF APPLICATION**

6 (Inaccurate Description of Facilities)

7 66. Respondent's Renewal Application is subject to denial in that it contains an
8 inaccurate description of the institution's facilities, in violation of California Code of Regulations,
9 title 5, section 71475, subdivision (y)(1). (Educ. Code §§ 94885, subd. (a)(3) and 94891, subd.
10 (b); and Cal. Code Regs., title 5, §§ 71700 and 71475, subds. (y)(1) and (y)(3).) The
11 circumstances are set forth in paragraphs 64 and 65, above.

12 ***Part IV, Section B: Respondent's Massage Therapy Program Library and Learning Resources***

13 67. Among the documents and information Respondent provided on or about November
14 29, 2023, Respondent described library and other learning resources for programs in the
15 Barbering and Cosmetology field. But Respondent did not explain how the resources are
16 sufficient to support the instructional needs of students enrolling in its Massage Therapy program.
17 No library or other learning resources were identified in support of that program.

18 68. On or about February 4, 2024, Respondent provided the Bureau with additional
19 documents pertaining to its library and learning resources. Among those documents, Respondent
20 provided photos of posted anatomical charts. But no massage therapy program library resources
21 were identifiable in the library and video bookshelf photo submissions.

22 **ELEVENTH CAUSE FOR DENIAL OF APPLICATION**

23 (Insufficient Library and Other Learning Resources)

24 69. Respondent's Renewal Application is subject to denial in that it fails to establish that
25 Respondent has sufficient library and other learning resources, as required by California Code of
26 Regulations, title 5, sections 71475, subdivision (z) and 71740, subdivisions (b) and (c). (Educ.
27 Code §§ 94885, subd. (a)(3) and 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700; 71740,

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1 subds. (b) and (c); and 71475, subd. (z).) The circumstances are set forth in paragraphs 67 and
2 68, above.

3 **PRAYER**

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

- 7 1. Denying the Application for Renewal of Approval to Operate and Offer Educational
8 Programs for Non-Accredited Institutions of Jade Beauty and Barber College; and
9 2. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 2/16/2024

"Original Signature on File"

DEBORAH COCHRANE
Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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