



Bureau for Private Postsecondary Education
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: MD Mobile Labs, Inc.
MD Mobile Labs
12628 Bellflower Blvd.
Downey, CA 90242

INSTITUTION CODE: Unapproved
CITATION NUMBER: 1718054
CITATION ISSUANCE/SERVICE DATE: July 25, 2018
DUE DATE: August 24, 2018
FINE AMOUNT: \$ 100,000.00
ORDER OF ABATEMENT INCLUDED: YES

Christina Villanueva issues this Citation: Assessment of Fine and Order of Abatement (Citation) in her official capacity as Discipline Manager for the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to MD Mobile Labs, Inc., Owner of MD Mobile Labs (Institution) located at 12628 Bellflower Blvd., Downey, CA 90242 pursuant to Business and Professions Code section 125.9 and 149; California Education Code (CEC) section 94943; (CEC) section 94944; BPC 1065.1; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violation(s) described below.

BACKGROUND

On July 21, 2017, the Bureau received a complaint from J.M. filed against the Institution. The Institution offers a phlebotomy training program to the public. J.M. enrolled into the Institutions phlebotomy program, paid \$1100.00 in tuition, attended the training program and was subsequently denied the required externship by Rose Provencio-Small (Provencio-Small), President of the Institution. Throughout the course of the investigation, Bureau staff discovered the Institution was operating a private postsecondary educational institution without obtaining Bureau approval.

On August 8, 2017, Bureau staff sent a letter to the Institution stating that the institution was operating without Bureau approval in violation of CEC section 94886 and directing the Institution to cease all operations. That letter was received and signed for by Provencio-Small on August 18, 2017.

On August 23, 2017, Bureau staff sent an email to California Department of Public Health (CDPH) Laboratory Field Services (LFS) at LFSRecep@cdph.ca.gov and inquired as to whether the Institution was approved by CDPH/LFS to offer a phlebotomy program.

On August 23, 2017, Bureau staff sent an email to Provencio-Small and requested proof of proper CDPH licensure allowing the operation of the Institution's phlebotomy program.

On August 30, 2017, Bureau staff received a response from Provencio-Small that stated the following:

"... MD Mobile Labs received verbal authorization on April 2017, from the Department of Public Health/Laboratory Field Services to teach an 80-hour phlebotomy program under MD Mobile Labs moderate complexity lab.

"MD Mobile Labs will provide the California Department of Consumer Affairs, Bureau for Private Postsecondary Education, Office of Enforcement documentation, once the Department of Public Health/Laboratory Field Services completes their review and notifies their Laboratory Licensing and Registration section."

On September 1, 2017, Bureau staff received a reply from CDPH/LFS where the following information was provided::

"...MD Mobile Labs Phlebotomy Training School has applied to LFS for approval pursuant to BPC section 1035.1. This application is under review and has not been approved at this time."

MD Mobile Phlebotomy Training Program has been informed that they are not approved to register students as long as the application is under review and has not been approved."

On April 18, 2018, a review by Bureau staff of the CDPH/LFS list of approved providers listed at <https://www.cdph.ca.gov/Programs/OSPHLD/LFS/Pages/Approved-Phlebotomy-Training-Schools.aspx> revealed that the Institution has not received permission from CDPH/LFS to offer a phlebotomy training program.

As of the date of this citation, the Institution has not received the Bureau's approval to operate a private postsecondary educational institution nor have they applied to the Bureau for approval to operate. To date, the Institution has not received approval from CDPH/LFS to offer phlebotomy education to the public. Pursuant to Title 17, CCR Section 1035.1 Phlebotomy Training Program Requirements, the Institution must have approval from CDPH/LFS, or the Bureau, to legally operate.

VIOLATION(S)

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5 CCR code) section(s) of law you are charged with violating.
1.	<u>Violation:</u> CEC Section 94886. Approval to Operate Required <i>"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."</i>

CEC Section 94817.5. Approved to Operate or Approved

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

CEC Section 94868. To Offer to the Public

“To offer to the public” means to advertise, publicize, solicit, or recruit.”

CEC Section 94869. To Operate

“To operate” means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided.”

CEC 94902. General Enrollment Requirements

(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

(b) An enrollment agreement is not enforceable unless all of the following requirements are met:

(1) The student has received the institution’s catalog and School Performance Fact Sheet prior to signing the enrollment agreement.

(2) At the time of the execution of the enrollment agreement, the institution held a valid approval to operate.

(3) Prior to the execution of the enrollment agreement, the student and the institution have signed and dated the information required to be disclosed in the Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of Section 94910. Each of these items in the Student Performance Fact Sheet shall include a line for the student to initial and shall be initialed and dated by the student.

(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.

Title 17, CCR Section 1035.1 Phlebotomy Training Program Requirements.

(a) In order to be eligible for approval by the department to provide didactic and/or practical phlebotomy instruction leading to certification of phlebotomists, a phlebotomy training program shall meet the requirements of this section and be offered by either a:

(1) National Accrediting Agency for Clinical Laboratory Sciences (NAACLS) approved program for training phlebotomists; or

(2) Accredited college or university; or

(3) Private, post-secondary program or occupational program registered or approved by the Bureau for Private Postsecondary and Vocational Education; or

(4) California Adult Education or Regional Occupational Program (ROP); or

(5) United States of America military medical laboratory specialist program; or

(6) California licensed clinical laboratory.

The Institution is operating as a private postsecondary educational institution without the Bureau’s approval. The Institution has not received the approval from the California Department of Public Health. The Institution enrolled J.M. into its unapproved phlebotomy program and accepted her tuition of \$1100.00 for the program. J.M. completed the program. The Institution refused to provide J.M. with the program’s required externship and has not refunded J.M. her tuition. Pursuant to Title 17, CCR Section 1035.1 Phlebotomy Training Program Requirements, the Institution must have approval from CDPH/LFS, or the Bureau, to legally operate.

Order of Abatement:

The Bureau orders that the Institution cease to operate as a private postsecondary educational institution. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including, but not limited to, <http://www.mdmobilelabs.com>, and any other websites not listed that are associated with the Institution, until such time as an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone services for, (562)307-2939; (800)818-2409 and (800)905-1209 and any other telephone numbers not identified here that are associated with MD Mobile Labs, Inc. until such time as an approval to operate is obtained from the Bureau. The Institution must provide a refund to all students enrolled at the school prior to receiving an approval to operate from the Bureau as the Enrollment Agreements signed are not enforceable since the school does not have a valid approval to operate. To comply with the Order of Abatement, the Institution must submit a school closure plan to the Bureau pursuant to California Education Code Section 94926 and 94927.5. The Institution must provide a roster of each student enrolled at the Institution since January 1, 2017. The roster must include the name of the student, their contact information (including phone number, email address, and physical address), the program in which they are enrolled, the date of enrollment, the amount paid for the program, and the amount the student was refunded.

Assessment of Fine

The fine for this violation is \$100,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$100,000.00

ASSESSMENT OF A FINE

In accordance with CEC section 94944; and 5, CCR section 75020(b), the Bureau hereby orders this assessment of a fine in the amount of **\$100,000.00** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

COMPLIANCE WITH ORDER OF ABATEMENT

In accordance with the provisions of 5, CCR section 75020 (b) the Bureau hereby issues the order(s) of abatement described above. In accordance with Business and Professions Code Section 149, the Bureau may disconnect any telephone service numbers used by an unapproved Institution. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **August 24, 2018**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **July 25, 2018**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **August 24, 2018**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Gurinder Sandhu, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

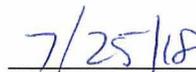
Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Gurinder Sandhu, Citation Analyst, at 916-431-6940 or Gurinder.sandhu@dca.ca.gov.



Christina Villanueva
Discipline Manager



Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First-Class Mail