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7

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

11 In the Matter of the Statement of Issues
12 Against:
13 **C & S HEALTH EDUCATION**
14 **SERVICES; SAMUEL CARRAWAY,**
15 **OWNER**
16 **Application for Renewal of Approval to**
17 **Operate and Offer Educational Program for**
18 **Non-Accredited Institutions**
19 **Institution Code: 46576478**
20 Respondent.

Case No. 1002380

STATEMENT OF ISSUES

21 Complainant alleges:

PARTIES

22 1. Joanne Wenzel (Complainant) brings this Statement of Issues solely in her official
23 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
24 Consumer Affairs.

25 2. On or about August 26, 2013, the Bureau for Private Postsecondary Education
26 received an application for an Application for Renewal of Approval to Operate and Offer
27 Educational Program for Non-Accredited Institution from C & S Health Education Services;
28 Samuel D. Carraway, Owner (Respondent). On or about August 19, 2013, Samuel D. Carraway

1 certified under penalty of perjury to the truthfulness of all statements, answers, and
2 representations in the application. The Bureau denied the application on January 3, 2017.

3 **JURISDICTION**

4 3. This Statement of Issues is brought before the Director of the Department of
5 Consumer Affairs (Director) for the Bureau.

6 4. Education Code Section 94891 states in pertinent part:

7 ...

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

10

11 5. Education Code Section 94887 states:

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

17 **STATUTORY PROVISIONS**

18 6. Business and Professions Code of 22 defines the term "board" to include "bureau."

19 7. Education Code section 94885¹ states:

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

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

23 (2) The institution maintains specific written standards for student admissions for each
24 educational program and those standards are related to the particular educational program.

25 (3) The facilities, instructional equipment, and materials are sufficient to enable students to
26 achieve the educational program's goals.

27 _____
28 ¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800 et seq.

1 (4) The institution maintains a withdrawal policy and provides refunds.

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

3 (6) The institution is financially sound and capable of fulfilling its commitments to
4 students.

5 (7) That, upon satisfactory completion of an educational program, the institution gives
6 students a document signifying the degree or diploma awarded.

7 (8) Adequate records and standard transcripts are maintained and are available to students.

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

10 (b) Except as provided in Section 94855.1, an institution offering a degree must satisfy one
11 of the following requirements:

12 (1) Accreditation by an accrediting agency recognized by the United States Department of
13 Education, with the scope of that accreditation covering the offering of at least one degree
14 program by the institution.

15 (2) An accreditation plan, approved by the bureau, for the institution to become fully
16 accredited within five years of the bureau's issuance of a provisional approval to operate to the
17 institution. The provisional approval to operate to an unaccredited degree-offering institution
18 shall be in compliance with Section 94885.5.

19 8. Education Code Section 94909 states in pertinent part:

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

23 . . .

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

25 (A) Admissions policies, including the institution's policies regarding the acceptance of
26 credits earned at other institutions or through challenge examinations and achievement tests,
27 admissions requirements for ability-to-benefit students, and a list describing any transfer or
28 articulation agreements between the institution and any other college or university that provides

1 for the transfer of credits earned in the program of instruction. If the institution has not entered
2 into an articulation or transfer agreement with any other college or university, the institution shall
3 disclose that fact.

4 (B) Cancellation, withdrawal, and refund policies, including an explanation that the student
5 has the right to cancel the enrollment agreement and obtain a refund of charges paid through
6 attendance at the first class session, or the seventh day after enrollment, whichever is later. The
7 text shall also include a description of the procedures that a student is required to follow to cancel
8 the enrollment agreement or withdraw from the institution and obtain a refund consistent with the
9 requirements of Article 13 (commencing with Section 94919).

10 (C) Probation and dismissal policies.

11 ...

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

14 ...

15 (12) A statement specifying whether the institution has a pending petition in bankruptcy, is
16 operating as a debtor in possession, has filed a petition within the preceding five years, or has had
17 a petition in bankruptcy filed against it within the preceding five years that resulted in
18 reorganization under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. Sec. 1101 et
19 seq.).

20

21 9. Education Code Section 94910 states in pertinent part:

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

26 (a) Completion rates, as calculated pursuant to Article 16 (commencing with Section
27 94928).

28 ///

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

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

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

10 (e) If a program is too new to provide data for any of the categories listed in this
11 subdivision, the institution shall state on its fact sheet: "This program is new. Therefore, the
12 number of students who graduate, the number of students who are placed, or the starting salary
13 you can earn after finishing the educational program are unknown at this time. Information
14 regarding general salary and placement statistics may be available from government sources or
15 from the institution, but is not equivalent to actual performance data."

16 (f) All of the following:

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

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

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

27 (g) The following statements:

28 ///

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

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

9 (h) If the institution participates in federal financial aid programs, the most recent three-
10 year cohort default rate reported by the United States Department of Education for the institution
11 and the percentage of enrolled students receiving federal student loans.

12 (i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not
13 required to include students who satisfy the qualifications specified in subdivision (d) of Section
14 94909, but an institution shall disclose whether the data, information, or both provided in its fact
15 sheet excludes students pursuant to this subdivision. An institution shall not actively use data
16 specific to the fact sheet in its recruitment materials or other recruitment efforts of students who
17 are not California residents and do not reside in California at the time of their enrollment.

18 10. Education Code Section 94911 states in pertinent part:

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

20 ...

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

24 ...

25 (f) A statement specifying that, if the student obtains a loan to pay for an educational
26 program, the student will have the responsibility to repay the full amount of the loan plus interest,
27 less the amount of any refund.

28 ///

1 (g) A statement specifying that, if the student is eligible for a loan guaranteed by the
2 federal or state government and the student defaults on the loan, both of the following may occur:

3 (1) The federal or state government or a loan guarantee agency may take action against the
4 student, including applying any income tax refund to which the person is entitled to reduce the
5 balance owed on the loan.

6 (2) The student may not be eligible for any other federal student financial aid at another
7 institution or other government assistance until the loan is repaid.

8 11. Education Code Section 94920 states in pertinent part:

9 An institution that does not participate in the federal student financial and programs shall do
10 all of the following:

11

12 (b) Institutions shall refund 100 percent of the amount paid for institutional charges, less a
13 reasonable deposit or application fee not to exceed two hundred fifty dollars (\$250), if notice of
14 cancellation is made through attendance at the first class session, or the seventh day after
15 enrollment, whichever is later.

16

17 (d) The institution shall have a refund policy for the return of unearned institutional
18 charges if the student cancels an enrollment agreement or withdraws during a period of
19 attendance. The refund policy for students who have completed 60 percent or less of the period of
20 attendance shall be a pro rata refund.

21 . . .

22 12. Education Code Section 94929.5 states in pertinent part:

23 (a) An institution shall annually report to the bureau, as part of the annual report, and shall
24 publish in its School Performance Fact Sheet, all of the following:

25 (1) The job placement rate, calculated by dividing the number of graduates employed in the
26 field by the number of graduates available for employment for each program that is either (1)
27 designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any
28 claim regarding job placement.

1 (2) The license examination passage rates for the immediately preceding two years for
2 programs leading to employment for which passage of a state licensing examination is required,
3 calculated by dividing the number of graduates who pass the examination by the number of
4 graduates who take the licensing examination the first time that the examination is available after
5 completion of the educational program. The institution shall use state agency licensing data to
6 calculate license examination passage rates. If those data are unavailable, the institution shall
7 calculate the license examination passage rate in a manner consistent with regulations adopted by
8 the bureau.

9 (3) Salary and wage information, consisting of the total number of graduates employed in
10 the field and the annual wages or salaries of those graduates stated in increments of five thousand
11 dollars (\$5,000).

12 (4) If applicable, the most recent official three-year cohort default rate reported by the
13 United States Department of Education for the institution and the percentage of enrolled students
14 receiving federal student loans.

15 (b) Nothing in this section shall limit the bureau's authority to collect information from an
16 institution to comply with this section and ensure, by regulation and other lawful means, that the
17 information required by this section, and the manner in which it is collected and reported, is all of
18 the following:

19 (1) Useful to students.

20 (2) Useful to policymakers.

21 (3) Based upon the most credible and verifiable data available.

22 (4) Does not impose undue compliance burdens on an institution.

23 (c) Data and information disclosed pursuant to paragraphs (1) to (3), inclusive, of
24 subdivision (a) is not required to include students who satisfy the qualifications specified in
25 subdivision (d) of Section 94909, but an institution shall disclose on its fact sheet and to the
26 bureau whether its data, information, or both, excludes any students pursuant to this subdivision.

27 **STATUTORY AND REGULATORY PROVISIONS**

28 13. Title 5, CCR, section 71475 states in part:

1

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

6 ...

7 (j) The institution shall provide in the application a description of the job duties and
8 responsibilities of each administrative and faculty position. If there have been no substantive
9 changes since the last submission, the institution may so state and is not required to submit
10 documentation.

11 (k) The institution shall identify in the application the chief executive officer, chief
12 operating officer, and chief academic officer and describe their education, experience, and
13 qualifications to perform their duties and responsibilities. If there have been no substantive
14 changes since the last submission, the institution may so state and is not required to submit
15 documentation.

16 ...

17 14. Title 5, CCR, section 71730 states in part:

18 (e) The chief academic officer shall possess a degree or equivalent acceptable experience at
19 least equal to the highest qualifications required of the institution's faculty. Chief academic
20 officers employed on the date of implementation of these regulations, who do not meet the
21 qualifications for their positions, shall have three years to earn the necessary degrees or
22 experience to qualify them for their position.

23

24 15. Title 5, CCR, section 71745 states:

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

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

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

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

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

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

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

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

18 (1) consents in writing to be sued in California;

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

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

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

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

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

28 16. Title 5, CCR, section 71800 states in part:

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

3

4 (b) Period covered by the enrollment agreement.

5

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

7

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

9

10 17. Title 5, CCR, section 71810 states in part:

11 (a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which
12 shall be updated annually. Annual updates may be made by the use of supplements or inserts
13 accompanying the catalog. If changes in educational programs, educational services, procedures,
14 or policies required to be included in the catalog by statute or regulation are implemented before
15 the issuance of the annually updated catalog, those changes shall be reflected at the time they are
16 made in supplements or inserts accompanying the catalog.

17 (b) The catalog shall contain the information prescribed by Section 94909 of the Code and
18 all of the following:

19

20 (9) A description of the facilities and of the types of equipment and materials that will be
21 used for instruction;

22 . . .

23 (13) Housing information including all of the following:

24 . . .

25 (B) The availability of housing located reasonably near the institution's facilities and an
26 estimation of the approximate cost or range of cost of the housing; and

27 . . .

28 ///

1 18. Title 5, CCR, section 74112 states in pertinent part:

2 (a) Format. The format for the Performance Fact Sheet shall be in at least
3 12 pt. type, in an easily readable font, with 1.15 line spacing and all titles and column
4 headings shall be in bold 14 pt. type, which shall also identify the program for which
5 the Performance Fact Sheet pertains. The Performance Fact Sheet shall contain all
6 and only the information required or specifically permitted by sections 94910 and
7 94929.5 of the Code or this chapter. A separate Performance Fact Sheet shall be
8 prepared for each program.

9 (b) An institution offering educational programs that are too new to
10 provide the required two years of data shall include the date the program began as
11 well as the statement required by section 94910(e) of the Code. The Performance Fact
12 Sheet shall also disclose the estimated date of availability for two full years of data
13 for those programs.

14 (c) Institutions approved under section 94874.8 of the Code, which do
15 not include all required information per section 94874.8(a)(4), shall include on the
16 Performance Fact Sheet the date of approval to operate and when the required data
17 will be available.

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

19 (1) "Number of Students Who Began the Program" means the number of students
20 who began a program who were scheduled to complete the program within 100%
21 of the published program length within the reporting calendar year, and excludes
22 all students who cancelled during the cancellation period.

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

26 (3) "Gainfully Employed" means:

27 (A)(i) The graduate is employed in a job classification under the United
28 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

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

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

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

8 (e) Reporting periods:

9 (1) An Annual Report shall include data for all educational programs as
10 defined in section 94837 of the Code for the previous one calendar year.

11 (2) A Performance Fact Sheet shall be current and available not later than
12 December 1st, and shall report data for the previous two calendar years based upon
the "number of students who began the program," as defined in subdivision (d)(1) of
this section and were scheduled to graduate in the reported year(s).

13 (f) Total Charges. The institution's Annual Report and Performance Fact
14 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
15 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
16 format listed below (dates and numbers are for example only):

17 **Cost of Educational Program:**

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

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

20 Student's Initials: _____ Date: _____

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

22 (g) Student Loan/Debt Information.

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

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

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

28 (C) The average amount of federal student loan debt of those graduates

1 who have federal student loan debt in the reporting year; and

2 (D) The percentage of graduates with federal student loans, as calculated
3 by the institution. Loan information shall be included in the Performance Fact Sheet
4 in a format substantially similar to the format listed below (dates and numbers are for
example only):

5 **Federal Student Loan Debt at (Name of Institution)**

6 Percentage of students who defaulted
7 on their federal student loans at this school: 28%<1>

8 Percentage of students enrolled in 20XX
9 who took out federal student loans to pay for this program: 43%

10 Percentage of graduates in 20XX who
11 took out federal student loans to pay for this program: 65%

12
13 Average federal student loan debt of
14 20XX graduates who took out federal student loans
15 at this institution: \$ 26,000

16 <1>The percentage of students who defaulted on their federal student loans
17 is called the Cohort Default Rate (CDR). It shows the percentage of this
18 school's students who were more than 270 days (about 9 months) behind on
19 their federal student loans within three years of when the first payment was
due. This is the most recent CDR reported by the U.S. Department of
Education.

20 Student's Initials: _____ Date: _____

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

23 (2) Institutions that do not participate in federal financial aid programs
24 shall include one of two statements in the Performance Fact Sheet in a format
substantially similar to the following:

25 Students at (name of institution) are not eligible for federal student loans. The U.S.
26 Department of Education has determined that this institution does not meet the
criteria that would allow its students to participate in federal student aid programs.

27 or

(Name of Institution) is eligible, but chooses not to participate in federal student aid programs. So students here do not have federal student loans.

Student's Initials: _____ Date: _____

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

(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% On-time Graduates	150% Completion Rate
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1	20XX	100	98	95	97%
2	20XY	80	80	78	98%
3	*20XZ	90	90	87	97%
4	*20YA	87	85	74	87%

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

6 Student's Initials: _____ Date: _____

7 **Initial only after you have had sufficient time to read and understand the**
 8 **information.**

9 (i) Job Placement Rates.

10 (1) Any placement data required by sections 94910(b) and 94929.5(a) of
 11 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.

12 (2) Placement is measured six months from the graduation date of each
 13 student. For programs that require passage of a licensing examination, placement
 shall be measured six months after the announcement of the examination results for
 14 the first examination available after a student completes an applicable educational
 program. Reporting of placement rates shall include for each educational program:
 15 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).

16 (3) If the institution makes any claim related to preparing students for a
 17 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
 18 level of the Standard Occupational Classification codes.

19 (4) Placement rate shall be calculated as follows: the number of
 20 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.

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

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

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Name of Educational Program (Program Length)

Year	Number of Calendar 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

1 **Self-Employed/Freelance Positions**

2 Graduates Employed who are

3 self-employed or Total Graduates Employed in the

4 working freelance Field

5 20XX	3	55
6 20XY	5	20

7 **Institutional Employment**

8 Graduates Employed in the field

9 who are employed by the

10 institution, an employer owned

11 by the institution, or an

12 employer who shares ownership Total Graduates Employed in the

13 with the institution Field

14 20XX	15	55
15 20XY	5	20

16 Student's Initials: _____ Date: _____

17 **Initial only after you have had sufficient time to read and understand**

18 **the information.**

19 (5) The following self-employment/freelance worker disclosure shall be

20 initialed by students entering any programs in which the majority of graduates who

21 obtain jobs obtain in this type of work:

22 This program may result in freelance or self-employment.

23 * The work available to graduates of this program is usually for freelance or self-

24 employment.

25 * This type of work may not be consistent.

26 * The period of employment can range from one day to weeks to several months.

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* Hours worked in a day or week may be more or less than the traditional 8 hour work day or 40 hour work week.

* You can expect to spend unpaid time expanding your networks, advertising, promoting your services, or honing your skills.

* Once graduates begin to work freelance or are self-employed, they will be asked to provide documentation that they are employed as such so that they may be counted as placed for our job placement records.

* Students initialing this disclosure understand that either a majority or all of this school's graduates are employed in this manner and understand what comprises that work style.

Student's Initials: _____ Date: _____

Only initial 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)

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First Available Exam Date	Date Exam Results Announced	Number of Graduates in Calendar Year	Number of Graduates Taking Exam
2/1/20XX	3/15/20XX	277	80
6/1/20XX	7/15/20XX	277	100
10/1/20XX	11/15/20XX	277	82
2/1/20XY	3/20/20XX	304	80
6/1/20XY	7/19/20XX	304	100
10/1/20XY	11/19/20XX	304	92

First Available Exam Date	Number Who Passed Exam	Number Who Failed Exam	Passage Rate
2/1/20XX	40	40	50%
6/1/20XX	75	25	75%
10/1/20XX	68	14	76%
2/1/20XY	40	40	50%
6/1/20XY	70	30	70%
10/1/20XY	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):

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

3 **Name of Educational Program (Program Length)**

4 Calendar	5 Number of	6 Number of	7 Number Who
8 Year	9 Graduates in	10 Graduates	11 Who
	12 Calendar Year	13 Taking Exam	14 Passed First
			15 Available Exam

9	20XX	95	80	40
10	20XY	109	100	75

11 Calendar	12 Number Who	13 Passage
14 Year	15 Failed First	16 Rate
	17 Available	
	18 Exam	

15	20XX	40	50%
16	20XY	25	75%

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

19 Student's Initials: _____ Date: _____

20 **Initial only after you have had sufficient time to read and understand the**
 21 **information.**

22 (k) Salary and Wage Information.

23 All Salary and Wage Information shall be reported to the Bureau pursuant to sections
 24 94910(d) and 94929.5(a)(3) of the Code and shall be included in the Performance Fact
 25 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).

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

28 **Name of Educational Program (Program Length)**

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

(l) Definitions. Definitions for all terms contained on the Performance Fact Sheet shall be included as part of the Performance Fact Sheet, in the same format as required in subdivision (a).

The following are the definitions for the Performance Fact Sheet:

"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.

"Students Available for Graduation" is the number of students who began the program minus the number of students who have died, been incarcerated, or been called to active military duty.

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

"On-time Completion Rate" is the number of on-time graduates divided by the number of students available for graduation.

"150% Graduates" is the number of students who completed the program within 150% of the program length (includes on-time graduates).

1 "150% Completion Rate" is the number of students who completed the program in the
2 reported calendar year within 150% of the published program length, including on-time
3 graduates, divided by the number of students available for graduation.

4 "Graduates Available for Employment" means the number of graduates minus the number
5 of graduates unavailable for employment.

6 "Graduates Unavailable for Employment" means the graduates who, after graduation, die,
7 become incarcerated, are called to active military duty, are international students that
8 leave the United States or do not have a visa allowing employment in the United States, or
9 are continuing their education in an accredited or bureau-approved postsecondary
10 institution.

11 "Graduates Employed in the Field" means graduates who beginning within six months
12 after a student completes the applicable educational program are gainfully employed,
13 whose employment has been reported, and for whom the institution has documented
14 verification of employment. For occupations for which the state requires passing an
15 examination, the six month period begins after the announcement of the examination
16 results for the first examination available after a student completes an applicable
17 educational program.

18 "Placement Rate Employed in the Field" is calculated by dividing the number of graduates
19 gainfully employed in the field by the number of graduates available for employment.

20 "Number of Graduates Taking Exam" is the number of graduates who took the first
21 available exam in the reported calendar year.

22 "First Available Exam Date" is the date for the first available exam after a student
23 completed a program.

24 "Passage Rate" is calculated by dividing the number of graduates who passed the exam by
25 the number of graduates who took the reported licensing exam.

26 "Number Who Passed First Available Exam" is the number of graduates who took and
27 passed the first available licensing exam after completing the program.

28 "Salary" is as reported by graduate or graduate's employer.

"No Salary Information Reported" is the number of graduates for whom, after making
reasonable attempts, the school was not able to obtain salary 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; 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;

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

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

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

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

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

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

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

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

24 (n) The institution shall provide on a separate document along with the
25 Performance Fact Sheet the same cancellation disclosure as that which is required to
26 be included with the enrollment agreement by Section 94911(e)(1) of the Code. The
27 separate document shall be substantially the same size as the Performance Fact Sheet
28 and shall be captioned "STUDENT'S RIGHT TO CANCEL" using bold 14 pt. type.

19 Title 5, CCR, section 74115 states:

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

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

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

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

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

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

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

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

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

22 20. Title 5, CCR, section 76215 states in pertinent part:

23 (a) A qualifying institution shall include the following statement on both its enrollment
24 agreement for an educational program and its current schedule of student charges:

25 "You must pay the state-imposed assessment for the Student Tuition Recovery Fund
26 (STRF) if all of the following applies to you:

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1 1. You are a student in an educational program, who is a California resident, or are enrolled
2 in a residency program, and prepay all or part of your tuition either by cash, guaranteed student
3 loans, or personal loans, and

4 2. Your total charges are not paid by any third-party payer such as an employer,
5 government program or other payer unless you have a separate agreement to repay the third party.

6 You are not eligible for protection from the STRF and you are not required to pay the STRF
7 assessment, if either of the following applies:

8 1. You are not a California resident, or are not enrolled in a residency program, or

9 2. Your total charges are paid by a third party, such as an employer, government program
10 or other payer, and you have no separate agreement to repay the third party."

11 **FIRST CAUSE FOR DENIAL OF APPLICATION**

12 (Failure to Satisfy Minimum Operating Standards: Organization and Management)

13 21. Respondent's application is subject to denial under section 5, California Code of
14 Regulations (CCR) sections §§ 71475 subdivisions (j) and (k) and 71730 subdivision (e) in that
15 the Respondent did not complete the Organization and Management section of the application as
16 required. Specifically, the Respondent did not provide job descriptions and responsibilities of
17 the Chief Operating Officer (COO) and Chief Academic Officer (CAO). Additionally, the
18 Respondent did not include information regarding the education, experience and qualifications for
19 the individuals holding the positions of CEO, COO and CAO.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 (Failure to Satisfy Minimum Operating Standards: Exemplars of Student Agreements)

22 22. Respondent's application is subject to denial under sections 5, CCR §§ 71800
23 subdivision (b), and (e)(II), 76215 subdivision (a) and California Education Code (CEC) § 94911
24 subdivisions (b), (f) and (g)(1) and (2) in that the Student Enrollment Agreements were deficient
25 as follows:

26 a. The enrollment agreement does not include a statement of the period covered by the
27 enrollment agreement.

1 b. The enrollment agreement does not clearly identify the Student Tuition Recovery fee
2 as a non-refundable fee in its itemization of total charges.

3 c. The enrollment agreement does not include the required statement regarding the
4 Student Tuition Recovery Fund.

5 d. The enrollment agreement does not include the required statement specifying that, if
6 the student obtains a loan to pay for an educational program, that student will have the
7 responsibility to repay the full amount of the loan plus interest, less the amount of a refund.

8 e. The enrollment agreement does not include the required statement specifying that, if
9 the student defaults on a federal or state loan, both the following may occur:

10 1) The federal or state government or a loan guarantee agency may take action against the
11 student, including applying any income tax refund to which the person is entitled to reduce the
12 balance owed on the loan.

13 2) The student may not be eligible for any other federal student financial aid at another
14 institution or other government financial assistance until the loan is repaid.

15 **THIRD CAUSE FOR DENIAL OF APPLICATION**

16 (Failure to Satisfy Minimum Operating Standards: Financial Resources and Statements)

17 23. Respondent's application is subject to denial under sections 5, CCR §§ 71475
18 subdivision (e) and 74115 in that the Financial Statements for the year ended December 31, 2015
19 do not meet the minimum required ratio of current assets to current liabilities of 1.00 to 1.25.
20 Instead, the ratio is 1.00 to 0.94, which is below the required amount. Moreover, the statements
21 demonstrate that the Respondent cannot pay all operating expenses due within 30 days. Finally,
22 the financial statements for the year ending December 31, 2015 are not current and do not
23 demonstrate the Respondent's current financial resources.

24 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

25 (Failure to Satisfy Minimum Operating Standards: Catalog)

26 24. Respondent's application is subject to denial under sections 5, CCR §§ 71810
27 subdivision (a) and (b)(9), (b)(13)(B) and 76215, and CEC § 94909 subdivisions (a), (a)(8)(A),
28 (a)(8)(B), (a)(8)(C), (a)(9), (a)(12), 94910, and 94920 subdivisions (b) and (d) in that:

1 a. The Respondent has not provided a separate statement indicating how often the
2 catalog is updated.

3 b. The Respondent has not provided a statement indicating how its catalog is provided
4 to a prospective student or to the general public when requested.

5 c. The catalog does not include a complete statement indicating the Respondent's status.
6 The catalog stated that the institution does not have a pending petition in bankruptcy, however it
7 did not address whether it is operating as a debtor in possession, has filed a petition within the
8 proceeding five years or has had a petition in bankruptcy filed against it within the proceeding
9 five years that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code.

10 d. The catalog does not include the types of equipment and materials that will be used
11 for instruction for the Home Health Aide and Certified Nurse Assistant programs.

12 e. The catalog does not contain policies regarding the acceptance of credits earned at
13 other institutions or through challenge examinations and achievement tests.

14 f. The catalog does not include a list of all charges for the entire program consistent
15 with the list of charges identified on the enrollment agreement.

16 g. The catalog does not include required verbatim language related to the Student
17 Tuition Recovery Fund.

18 h. The catalog includes contradictory statements regarding the cancelation policy. It
19 states that the institution will refund the amount paid for institutional charges less the non-
20 refundable registration fee, however the catalog also includes a refund policy stating: "There will
21 be no refunds of fee monies for students dismissed due to a violation of the Code of Conduct."
22 This refund policy is not compliant and contradicts the cancelation and withdrawal policy
23 described in the catalog.

24 i. The catalog does not include probation policies.

25 j. The catalog does not describe the availability of housing located reasonably near the
26 Respondent's facilities and an estimation of the cost or range of cost of the housing.

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FIFTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Satisfy Minimum Operating Standards: School Performance Fact Sheets)


25. Respondent's application is subject to denial under sections 5, CCR § 74112 and CEC §§94910 and 94929.5 in that it does not provide a School Performance Fact Sheets for each educational program it offers.

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 C & S Health Education Services; Samuel D. Carraway, Owner for a Renewal of Approval to Operate and Offer Educational Program for Non-Accredited Institutions; and
- 2. Taking such other and further action as deemed necessary and proper.

DATED: 6/23/17


 JOANNE WENZEL
 Chief
 Bureau for Private Postsecondary Education
 Department of Consumer Affairs
 State of California
Complainant

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