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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**

13 In the Matter of the Statement of Issues
Against:
14
15 **HONOR HEALTH SCIENCES, INC.**
16
17 **Approval to Operate an Institution Non-**
18 **Accredited Applicant**

Case No. 1004515

**FIRST AMENDED
STATEMENT OF ISSUES**

Respondent.

19
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about January 23, 2018, the Bureau for Private Postsecondary Education
26 received an application for an Approval to Operate an Institution Non-Accredited from Honor
27 Health Sciences, Inc. (Respondent). On or about January 16, 2018, Jeffrey Chan, Respondent's

1 the truthfulness of all statements, answers, and representations in the application. The Bureau
2 denied the application on March 13, 2019.

3 **JURISDICTION**

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

8 4. Education Code (Code) section 94886 states:

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

13 5. Code section 94887 states:

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

20 **STATUTORY PROVISIONS**

21 6. Code section 94853 states:

22 “Parent company” means a partnership, limited liability company, or corporation
23 that owns more than 50 percent of the stock or interest in an institution.

24 7. Code section 94909 states in part:

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

28 ...

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

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REGULATORY PROVISIONS

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8. Title 5, CCR, section 71210 (Regulation 71210) states in part:

(a) The institution shall identify and describe the educational program it offers, or proposes to offer. If the educational program is a degree program, the institution shall identify the full title which it will place on each degree awarded.

...

(c) In addition, the institution shall list the following for each educational program offered:

...

(6) The graduation requirements; and,

...

9. Title 5, CCR, section 71260 (Regulation 71260) states in part:

(a) For each program offered, the Form Application 94886 shall contain a description of the facilities and the equipment which is available for use by students at the main, branch, and satellite locations of the institution.

...

(d) The description shall include specifications of significant equipment that demonstrate that the equipment meets the standards prescribed by the Code and this chapter and is sufficient to enable students to achieve the educational objectives of each education program.

(e) For each item of significant equipment, the description shall indicate whether the equipment is owned, leased, rented, or licensed for short- or long-term, or owned by another and loaned to be used without charge.

(f) The Form Application 94886 shall contain a list of all permits, certifications, or other evidence of inspections or authorizations to operate required by the jurisdictions within which the institution operates that the institution has obtained, and/or an explanation as to why those permits, certifications, or inspections have not yet been obtained.

10. Title 5, CCR, section 71320 (Regulation 71320) states:

The Form Application 94886 shall contain a description of the procedures used by the institution to assure that it is maintained and operated in compliance with the Act and this Division.

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1 11. Title 5, CCR, section 71710 (Regulation 71710) states in part

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

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

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

8 (c) course or module materials that are designed or organized by duly qualified
9 faculty. For each course or module, each student shall be provided with a syllabus or
10 course outline that contains:

11 (1) a short, descriptive title of the educational program;

12 (2) a statement of educational objectives;

13 (3) length of the educational program;

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

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

16 (6) sequential and detailed outline of subject matter to be addressed or a list of skills
17 to be learned and how those skills are to be measured;

18 (7) instructional mode or methods.

19 12. Title 5, CCR, section 71715 (Regulation 71715) states in part:

20 ...

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

23 ...

24 13. Title 5, CCR, section 71720 (Regulation 71720) states in part:

25 (a) An Educational Program Leading to a Degree.

26 (1) An institution offering an educational program that leads to a degree shall
27 employ duly qualified faculty sufficient in number to provide the instruction, student
28 advisement, and learning outcomes evaluation necessary for the institution to
document its achievement of its stated mission and objectives, and for students to
achieve the specific learning objectives of each course offered;

...

(9) The institution shall maintain records documenting that each faculty member is
duly qualified and was qualified to perform the duties to which the faculty member
was assigned, including providing instruction, evaluating learning outcomes,

1 evaluating graduate dissertations, theses, and student projects, and participating on
2 doctoral committees.

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4 14. Title 5, CCR, section 71735 (Regulation 71735) states:

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

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

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

20 (b) An institution's facilities, including heating and cooling, ventilation, lighting,
21 classrooms, laboratories, and campus environs, shall be well-maintained. The
22 institution shall maintain all valid permits required by any public agencies relating to
23 the health and safety of the institution's facilities and equipment on file, and such
24 permits shall be available to the Bureau upon request.

25 15. Title 5, CCR, section 71745 (Regulation 71745) states:

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

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

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

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

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

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

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

1 institution but are held for future disbursement for the benefit of students. Unearned
2 tuition shall be accounted for in accordance with general accepted accounting
3 principles.

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

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

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

10 (3) designates and maintains an agent for service of process, consistent with section
11 74190;

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

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

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

19 16. Title 5, CCR, section 74115 (Regulation 74115) states:

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

22 (b) A set of financial statements shall contain, at a minimum, a balance sheet, an
23 income statement, and a cash flow statement, and the preparation of financial
24 statements, shall comply 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
27 American Institute of Certified Public Accountants by an independent certified public
28 accountant who is not an employee, officer, or corporate director or member of the
governing board of the institution.

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

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

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

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

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

6 (d) "Current" with respect to financial statements means completed no sooner than
7 120 days prior to the time it is submitted to the Bureau, and covering no less than the
8 most recent complete fiscal year. If more than 8 months will have elapsed between
9 the close of the most recent complete fiscal year and the time it is submitted, the
10 fiscal statements shall also cover no less than five months of that current fiscal year.

11 **FACTUAL ALLEGATIONS**

12 17. On or about January 23, 2018, the Bureau received an application for an Approval to
13 Operate a Non-accredited Institution from Respondent. Respondent sought approval to offer
14 certificate programs in vocational nursing and medical assisting. The campus is located in El
15 Centro, California and instruction is to be provided in the classrooms.

16 18. On or about February 12, 2018, the Bureau acknowledged receipt of the application
17 and sent Respondent a letter advising that the application was incomplete. The Bureau requested
18 information to complete the application including student agreements, instruction and degrees
19 offered, description of the educational programs, financial resources, faculty, libraries and other
20 learning resources, graduation or completion documents and self-monitoring procedures. On
21 May 7, 2018, the Bureau received a response from Respondent enclosing additional documents.
22 On June 1, 2018, the Bureau received financial statements from Respondent.

23 19. On or about June 11, 2018, the Bureau sent Respondent a letter advising of
24 deficiencies in the application including incomplete information regarding the school's
25 organization and management, student agreements, instruction and degrees offered, description of
26 the educational programs, financial resources, faculty, facilities and equipment, libraries and other
27 learning resources, catalog, graduation or completion documents, record keeping and self-
28 monitoring procedures.

29 20. On or about July 13, 2018, the Bureau received a response to the June 11, 2018
30 deficiency letter. However, the application was still incomplete and on or about July 26, 2018,
31 the Bureau sent Respondent another deficiency letter.

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1 21. On or about November 7, 2018, the Bureau sent Respondent a letter advising of
2 remaining deficiencies in the application. On or about January 16, 2019, the Bureau received
3 additional information and documents in support of its application. These documents indicated
4 Respondent is seeking approval of programs in Vocational Nursing (VN), Associate Degree in
5 Nursing (ADN), and Associate of Occupational Science Degree - Physical Therapist Assistant
6 (PTA). Respondent described the ADN and PTA programs as degree programs. Deficiencies in
7 the application and supporting documents remained. On or about March 13, 2019, Respondent's
8 application was denied.

9 22. On January 22, 2020, the Bureau received additional documents from Respondent in
10 support of its application. Respondent was advised on or about January 27, 2020 that some
11 deficiencies were cured but some remained.

12 23. On February 26, 2020, the Bureau received additional documents from Respondent in
13 support of its application. Respondent was advised on or about March 3, 2020 that some
14 deficiencies were cured but some remained.

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
17 **- Description of Educational Program)**

18 24. Respondent's application is subject to denial under Code section 94887 in conjunction
19 with Regulations 71210(c)(6) and 71710, subdivisions (a), (b) and (c), for failure to demonstrate
20 capacity to meet the minimum operating standards with regard to the syllabi for its educational
21 programs as follows:

22 a. Respondent's Vocational Nursing syllabi failed to comply with Regulation 23
23 71710(c)(2), (c)(3) and (c)(6) in that:

24 i) Hours for Fundamentals of Nursing and for Transitioning to Nursing courses
25 are unclear because of inconsistencies in the hours for these courses in Section 12 of the
26 application, recently submitted syllabi, and other documents;

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1 ii) Hours for Transitioning to Nursing lecture, lab and clinical hours did not
2 correspond with the hours in the program outline and instructional hours in the syllabus for
3 Transitioning to Nursing did not match the 2020-2022 Course Schedule;

4 iii) An updated program level syllabus or a complete set of course level syllabi for
5 the Vocational Nursing program containing the sequence and frequency of class sessions was not
6 provided. In addition, an updated program level syllabus or a complete set of course level syllabi
7 including a list of subject matter or skills to be learned and how those skills are to be measured
8 was or were not provided; and,

9 iv) The sum of scheduled instructional hours did not match the required number of
10 hours for each course.

11 b. Respondent failed to provide syllabi for its Associate Degree in Nursing (ADN)
12 program that complied with Regulation 71710(c)(1)-(7).

13 c. Respondent failed to provide syllabi for its Occupational Science Degree – Physical
14 Therapist Assistant program that complied with Regulation 71710(c)(1)-(7).

15 d. The tentative 2-year course schedules do not demonstrate sufficient instructional
16 hours in the VN and ADN programs, including the Fundamentals of Nursing, Medical-Surgical I,
17 Medical-Surgical II, Medical-Surgical III, and General Microbiology courses, in violation of
18 Regulation 71710(c)(3).

19 e. Respondent failed to demonstrate sufficient instructional hours in the syllabi for the
20 VN and ADN programs, including the Fundamentals of Nursing, Medical-Surgical I, Medical-
21 Surgical II, Medical-Surgical III, and General Microbiology courses, to meet the institutions’
22 graduation requirements, in violation of Regulation 71210(c)(6).

23 f. Student learning outcomes and course objectives described in the syllabus for “Psych
24 100” were not related to the study of psychology, in violation of Regulation 71710(a) and (b).

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1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
3 **- Financial Resources)**

4 25. Respondent's application is subject to denial under Code section 94887 in conjunction
5 with Code section 94853 and Regulations 71745 and 74115, for failure to demonstrate capacity to
6 meet the minimum operating standards as to the institution's financial resources as follows.

7 a. On or about January 22, 2020, Respondent submitted financial statements of Home
8 Health Agency in order to demonstrate its capacity to meet the minimum operating standards for
9 financial resources. However, Respondent has not demonstrated that Home Health Agency is an
10 owner or parent company of the institution. Furthermore, the financial statements were not
11 current financial statements as defined by Regulation 74115(d).

12 b. On or about February 26, 2020, Respondent submitted financial statements of
13 HealthPeak Home Health as a parent company of Respondent. However, Respondent has not
14 demonstrated that HealthPeak Home Health is a parent company of the institution as defined by
15 Code section 94853.

16 **THIRD CAUSE FOR DENIAL OF APPLICATION**

17 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
18 **- Faculty)**

19 26. Respondent's application is subject to denial under Code section 94887 in conjunction
20 with Regulations 71710(c), 71720(a)(1) and (a)(9), for failure to demonstrate capacity to meet the
21 minimum operating standards with regard to its faculty as follows:

22 a. Respondent failed to demonstrate that its courses were designed or organized by duly
23 qualified faculty, in violation of Regulations 71710(c) and 71720(a)(9), as follows:

24 i) As to the curriculum for the general education courses in the ADN program:

25 I) The institution's January 16, 2019 response indicated J.C. created all of
26 the curricula for the VN program and the ADN program. Respondent failed to demonstrate that
27 J.C. was qualified to have created the curricula for the following general education courses in the
28

1 ADN program: College Mathematics I, Introduction to Psychology, Written Communications I,
2 Introduction to Sociology, Oral Communication, and Cultural Pluralism.

3 II) On or about February 26, 2020, Respondent stated that J.R.S. created the
4 curriculum for Mathematics; K.S. created the curricula for Written and Oral Communications;
5 and, A.M. created the curriculum for the remaining general education courses. However, course
6 descriptions provided for these courses in the current catalog have not changed from previous
7 submissions in which J.C. was identified as the curriculum creator. In addition, part or all of the
8 course descriptions were found on another institution's website and course outcomes and
9 objectives did not match course descriptions.

10 ii) As to the general education courses for the Physical Therapist Assistant (PTA)
11 program:

12 I) Respondent originally identified C.I. as the sole creator of curricula for
13 the PTA program, including the general education courses of Written Communications I, College
14 Mathematics I, and Introduction to Psychology, which appear to be the same as the curricula for
15 these courses in the ADN program. Respondent failed to demonstrate that C.I. was qualified to
16 have created the curricula for these general education courses.

17 II) On or about February 26, 2020, Respondent stated that J.R.S. created the
18 curriculum for Mathematics; K.S. created the curriculum for Written Communications; and, A.M.
19 created the curriculum for the Introduction to Psychology course. However, course descriptions
20 provided for these courses in the current catalog have not changed from previous submissions in
21 which C.I. was identified as the curriculum creator. In addition, part or all of the course
22 descriptions were found on another institution's website and course outcomes and objectives did
23 not match course descriptions.

24 b. Respondent failed to demonstrate that it employs duly qualified faculty sufficient in
25 number to provide the instruction, student advisement, and learning outcomes evaluation
26 necessary for the institution to document its achievement of its stated mission and objectives, and
27 for students to achieve the specific learning objectives of Written Communications I and Oral
28 Communication, in violation of Regulation 71720(a)(1).

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
3 **- Facilities and Equipment)**

4 27. Respondent's application is subject to denial under Code section 94887 in conjunction
5 with Regulation 71735(a) and (b), for failure to demonstrate capacity to meet the minimum
6 operating standards with regard to its facilities and equipment as follows:

7 a. Respondent initially failed to provide the requested tentative 2-year class schedule for
8 each course to be offered in the VN and ADN programs that showed the time of class meeting,
9 room number and assigned faculty to demonstrate that the single classroom and lab room are
10 sufficient facilities to support the educational objectives of all courses and programs.

11 i) On or about January 22, 2020, Respondent provided the requested tentative 2-
12 year class schedules for the VN program, however the schedule of classes showed insufficient
13 scheduled hours for Fundamentals of Nursing, Medical-Surgical I, Medical-Surgical II and
14 Medical-Surgical III, in violation of Regulation 71735(a).

15 ii) On or about January 22, 2020, Respondent provided the requested tentative 2-
16 year class schedules for the ADN program, however the schedule of classes shows insufficient
17 scheduled hours for General Microbiology, in violation of Regulation 71735(a).

18 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

19 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
20 **- Catalog)**

21 28. Respondent's application is subject to denial under Code section 94887 in conjunction
22 with Code 94909(a)(5), for failure to demonstrate capacity to meet the minimum operating
23 standards with regard to the catalog submitted on February 26, 2020, in that:

24 a. The length of the educational programs, the requirements for the completion of each
25 program and the method for calculating units were unclear in the catalog because of discrepancies
26 in total hours.

27 b. The catalog refers to both semester units and quarter units. 28

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1 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**

3 **- Achievement of Learning Objectives)**

4 29. Respondent's application is subject to denial under Code section 94887 in conjunction
5 with Regulation 71715(b) for failure to demonstrate capacity to meet the minimum operating
6 standards by failing to demonstrate that the instruction offered in the following courses will lead
7 to the achievement of learning objectives as follows:

8 a. Courses in Fundamentals of Nursing, Medical-Surgical I, Medical-Surgical II,
9 Medical-Surgical III, and General Microbiology had insufficient instructional hours to
10 demonstrate the courses will lead to achievement of learning objectives.

11 b. Learning objectives for the Mathematics course reference the semester system
12 however, Respondent reported its intent to utilize a quarter system. Because at least part of the
13 curriculum for the Mathematics course appeared to have been borrowed from an institution that
14 utilizes a semester system, Respondent failed to demonstrate that the content was developed for a
15 quarter system and that the learning objectives may be achieved utilizing a quarter system.

16 c. Student learning outcomes and course objectives provided for Psychology 100 have
17 no relationship to the study of psychology. Respondent failed to demonstrate the course content
18 will achieve the educational objectives.

19 **PRAYER**

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

23 1. Denying the application of Honor Health Sciences, Inc. for an Approval to Operate an
24 Institution Non-Accredited; and,

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

DATED: "5/1/2020"

"Original signature on file"

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

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