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

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

15 **CALIFORNIA BEAUTY ACADEMY**

16 **School Code: 3003191**

17 Respondent.

Case No. 1006630

STATEMENT OF ISSUES

18
19
20 **PARTIES**

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

24 2. On or about June 26, 2020, the Bureau received an Application for Significant
25 Change in Method of Instructional Delivery from New American Beauty Corp., Thanh Mai Thi
26 Tran (70%), and Hien Vinh Dang (30%), owners of California Beauty Academy (Respondent).
27 On or about June 20, 2020, Thanh Mai Thi Tran certified under penalty of perjury to the
28

1 truthfulness of all statements, answers, and representations in the application. The Bureau denied
2 the application on November 9, 2020.

3 **JURISDICTION**

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

7 **STATUTORY PROVISIONS**

8 4. Section 94893 of the Code states:

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

12 5. Section 94932 of the Code states:

13 The bureau shall determine an institution's compliance with the requirements of
14 this chapter. The bureau shall have the power to require reports that institutions shall
15 file with the bureau in addition to the annual report, to send staff to an institution's
16 sites, and to require documents and responses from an institution to monitor
17 compliance. When the bureau has reason to believe that an institution may be out of
compliance, it shall conduct an investigation of the institution. If the bureau
determines, after completing an investigation, that an institution has violated any
applicable law or regulation, the bureau shall take appropriate action pursuant to this
article.

18 **REGULATORY PROVISIONS**

19 6. Title 5, CCR, section 71230 states:

20 If the institution offers an educational program, or a portion of it, in a language
21 other than English, the Form Application 94886 shall contain a description of all of
the following for each educational program or portion thereof.

22 (a) The language in which each educational program will be offered.

23 (b) A statement that the institution has contracted with sufficient duly qualified
24 faculty who will teach each language group of students.

25 (c) The language of the textbooks and other written materials to be used by each
26 language group of students.

27 7. Title 5, CCR, section 71400.5 states in part:

28 (a) The inclusion of false or misleading information, or the intentional or
negligent omission of pertinent information on any application may result in the
denial of the application or a delay in processing, and may be grounds for action

pursuant to Article 18 of the Act . . .

///

8. Title 5, CCR, section 71600 states in part:

...

(b) The application shall establish that the institution, if making a significant change in its method of instructional delivery, can meet the minimum operating standards contained in Chapter 3, and shall include:

...

(2) A description of the proposed new method of instructional delivery, and how the curriculum will be changed or adapted to meet the change in delivery method

...

(4) A description of how the change affects students, administration, and the institution's financial resources . . .

9. Title 5, CCR, section 71655 states in part:

...

(b) An incomplete application filed under this Article will render it ineligible for processing, or subject to denial.

...

(d) In addition to the grounds stated in subdivisions (a) and (b) of this section, the Bureau may deny an application on the following grounds:

(1) failure to establish that the proposed change will meet the institutional operating standards set forth in Chapter 3 of this Division

...

(e) An applicant denied an approval for a substantive change to its approval to operate under this Article, may reapply or may request an informal hearing before the Director.

10. Title 5, CCR, section 71715 states in part:

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

...

(2) assess each student, prior to admission, in order to determine whether each

1 student has the skills and competencies to succeed in a distance education
2 environment;

3 (3) ensure that the materials and programs are current, well organized, designed
4 by faculty competent in distance education techniques and delivered using readily
5 available, reliable technology . . .

6 11. Title 5, CCR, 71735 states in part:

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

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

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

22 **FACTS**

23 12. On June 26, 2020, the Bureau received an Application for Significant Change in
24 Method of Instructional Delivery, Application Number 33511, from Respondent. Along with this
25 application, Respondent submitted a “Change of Instructional Method: Distance Learning
26 Addendum.” This addendum was copied from an application submitted by a separate institution
27 and which had been received by the Bureau on May 20, 2020.

28 13. On November 9, 2020, the Bureau issued a Notice of Denial of Substantive Change.
On December 9, 2020, the Bureau received a letter from Respondent, appealing the denial and
requesting a hearing.

29 **FIRST CAUSE FOR DENIAL OF APPLICATION**

30 **(False or Misleading Information)**

31 14. Respondent's application is subject to denial under Code section 94932, as defined by
32 title 5, CCR section 71400.5(a), in that Respondent’s application contained false information that
33 was copied from another institution, as alleged in paragraph 13 above. The submission references

1 numerous programs not offered by Respondent, and it pertains only to the institution that initially
2 submitted the material.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Failure to Demonstrate Ability to Comply with Minimum Operating Standards – Method**
5 **of Delivery)**

6 15. Respondent's application is subject to denial under title 5, CCR sections 71600(b)(2),
7 71655(d)(1), and 71715(d)(2) and (d)(3) in that Respondent failed to demonstrate that its
8 proposed changes meet the minimum operational standards required for distance learning.

9 a. Respondent failed to demonstrate that its programs and materials are delivered using
10 readily available, reliable technology by failing to allow the Bureau access to its on-line delivery
11 platforms, subjecting its application to denial under title 5, CCR section 71655, subdivision
12 (d)(1), and title 5, CCR section 71715, subdivision (d)(3). Respondent's application states that
13 the "Platforms use[d] to teach theoretical and practical class" include "Zoom, Milady MindTap,
14 Facebook, [and] Instagram." The application additionally references use of Google Classroom
15 for attendance, chapter reviews, and Zoom links. Because Respondent did not provide the Bureau
16 with access to its platforms, the Bureau was unable to assess the platform and ensure whether the
17 materials and programs are current, well organized, designed by faculty competent in distance
18 education techniques and delivered using readily available, reliable technology.

19 b. Respondent failed to adequately describe the proposed new method of instructional
20 delivery in that the application documents differ with regard to how much of the institution's
21 programs will be offered online, subjecting its application to denial under title 5, CCR section
22 71655, subdivision (d)(1), and title 5, CCR, section 71600, subdivision (b)(2). Respondent's
23 application states on one of the Enrollment Agreement Addenda that no more than 335 hours can
24 be taken online for Barbering (a 1400-hour program) and Cosmetology (a 1600-hour program).
25 However, under the "Students: Support Services" section, Respondent states: "The maximum
26 online instruction will be 50% of the program." Additionally, under the "Submit copies of
27 distance education Syllabus/Requirements of student" section, Respondent states: "Once the State
28 directive has lifted a student can only acquire a maximum 50% using online platforms."

1 c. Respondent failed to provide sufficient facilities and necessary equipment to support
2 the achievement of the educational objectives of all of the courses and educational programs in
3 which students are enrolled, subjecting its application to denial under Code section 94932; title 5
4 CCR, section 71600, subdivision (b)(4). and title 5 CCR, section 71735, subdivision (a).
5 Respondent's Distance Education Enrollment Agreement Addenda required students to confirm:
6 "I must supply my own electronic device that will allow me to participate" in distance education
7 instruction. However, under the section "Describe accessibility," the application states, "If
8 students don't have access to a smartphone, laptop, tablet or computer, the school will offer a
9 device for the student to use at the institution." Additionally, Respondent failed to explain how
10 the change to distance education will affect students, administration, and the institution's financial
11 resources. The application does not consistently describe the effect the proposed change will
12 have on students, as it is unclear whether the necessary equipment will be supplied, and if so, how
13 Respondent will supply it.

14 d. Respondent failed to assess whether each student has the skills and competencies to
15 succeed in a distance education environment, subjecting its application to denial under Code
16 section 94932 and title 5 CCR, section 71715, subdivision (d)(2). Under the application's section
17 "Explain how you assess each student, prior to admission, in order to determine whether each
18 student has the skills and competencies to succeed in a distance education environment," the
19 institution describes what students are informed of and options they will be provided, but no
20 assessment of skills and competencies is described.

21 **THIRD CAUSE FOR DENIAL OF APPLICATION**

22 **(Failure to Demonstrate Ability to Comply with Minimum Operating Standards –** 23 **Curriculum)**

24 16. Respondent's application is subject to denial under title 5, CCR sections 71600(b)(2),
25 71655(d)(1), and 71715(d)(2) and (d)(3) in that Respondent failed to demonstrate that its
26 proposed changes meet the minimum operational standards required for the institution's
27 curriculum.
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1 a. Respondent failed to adequately describe how the curriculum will be changed or
2 adapted to meet the change in delivery method, subjecting its application to denial under title 5,
3 CCR section 71600, subdivision (b)(2). Respondent’s application describes bi-weekly chapter
4 exams that the “student must come to school to take.” Additionally, the application states: “All
5 assessments that will be used for calculating a student’s GPA must be completed while the
6 student is physically on campus.” However, under “examples of assessments,” it states, “The
7 instructor will then share their computer screen with the class. The students will then take the test.
8 Students will submit their answers through Google classroom.”

9 b. Respondent failed to attach course outlines or samples of its curriculum for review,
10 and thus did not adequately demonstrate how its curriculum will be changed or adapted to meet
11 the change in delivery method, subjecting its application to denial under title 5, CCR section
12 71600, subdivision (b)(2). Under the section “Submit sequential and detailed outline of subject
13 matter to be addressed or a list of skills to be learned and how those skills are to be measured,”
14 the application states: “Attached are the Course outlines.” However, no course outlines were
15 attached. Additionally, under the prompt “Explain how you ensure that the educational program
16 offered through distance education is appropriate for delivery through distance education
17 methods,” it states, “using the CIB state board practice exams – Attached,” but no practice exams
18 were attached.

19 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

20 **(Failure to Demonstrate Ability to Comply with Minimum Operating Standards –**
21 **Faculty Competency Regarding Distance Education)**

22 17. Respondent's application is subject to denial under title 5, CCR section 71715(d)(3),
23 in that Respondent failed to demonstrate that it has duly qualified faculty to teach through
24 distance education.

25 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

26 **(Failure to Obtain Prior Approval)**

27 18. Respondent's application is subject to denial under Code section 94893, as defined by
28 title 5 CCR section 71230, in that it failed to obtain prior approval before offering instruction in

1 another language. Under the “Students: Support Services” section of Respondent’s application,
2 the application states: “Whenever online instruction will take place, there will be online
3 orientation for each program in the language of instruction.” This statement implied that
4 orientations will be offered in more than one language; however, the institution only has approval
5 for English language instruction.

6 **PRAYER**

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

- 10 1. Denying California Beauty Academy’s Application for Significant Change in Method
11 of Instructional Delivery; and,
12 2. Taking such other and further action as deemed necessary and proper.

13 DATED: “6/29/2021” _____

14 “Original signature on file”
15 DEBORAH COCHRANE
16 Chief
17 Bureau for Private Postsecondary
18 Education
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

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