



BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
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CITATION: ASSESSMENT OF FINE AND ORDER OF ABATEMENT

To: David Floyer, Owner
DiaNova Institute
1998 Pacific Avenue, Suite 305
San Francisco, CA 94109

INSTITUTION CODE: Unapproved
CITATION NUMBER: 1819212
CITATION ISSUANCE/SERVICE DATE: June 4, 2019
DUE DATE: July 4, 2019

FINE AMOUNT: \$ 100,000.00

ORDER OF ABATEMENT INCLUDED: Yes

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

CITATION

A Citation is hereby issued to David Floyer, Owner of DiaNova Institute (Institution) located at 1998 Pacific Avenue, Suite 305, San Francisco, CA 94109 pursuant to Business and Professions Code section 125.9 and 149; California Education Code (CEC) section 94944; and Title 5 of the California Code of Regulations (5, CCR) section 75020 for the violation(s) described below.

BACKGROUND

Unless exempted per Article 4 of the CEC section 94886 requires private postsecondary educational institutions in California to obtain an approval to operate from the Bureau for Private Postsecondary Education prior to opening or conducting business.

On July 7, 2017, the Bureau received from an Application for Approval to Operate and Offer Educational Programs for an Institution Non-Accredited from the Institution. On November 14, 2018, the Bureau denied the application. The Notice of Denial provided to the Institution states "*...your institution is not approved to operate by the Bureau in the state of California. A person found operating an institution without proper approval to operate issued by the Bureau is subject to a fine not to exceed \$100,000.*"

As of June 4, 2019, the Institution's website (<http://www.dianovainstitute.org/>) offers educational programs to the public without Bureau approval is operating in violation of CEC section 94886.

VIOLATION(S)

#	Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating.
1.	<p>Violation:</p> <p>CEC Section 94886. Approval to Operate Required <i>"Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter."</i></p> <p>CEC Section 94817.5. Approved to Operate or Approved <i>"Approved to operate" or "approved" means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs."</i></p> <p>CEC Section 94868. To Offer to the Public <i>"To offer to the public" means to advertise, publicize, solicit, or recruit."</i></p> <p>CEC Section 94869. To Operate <i>"To operate" means to establish, keep, or maintain any facility or location in this state where, or from which, or through which, postsecondary educational programs are provided."</i></p> <p>As of June 4, 2019, the Institution's website includes a Catalog, dated September 24, 2018 to September 20, 2019. On page 32 of the Catalog the following is offered: Health and Intimacy Studies Certificate Program, at a cost of \$6,869.00. On page 58 of the Catalog, the following program is offered: Clinical Health and Intimate Studies Certificate Program at a cost of \$8,369.00.</p> <p>The Institution offers individual courses that are under \$2,500, however, the total cost of the Institution's educational programs exceeds the \$2,500 threshold for meeting an exemption under CEC section 94874(f).</p> <p>The Institution is operating and advertising its Institution and educational programs in violation of CEC section 94886.</p> <p>Order of Abatement: The Bureau orders that the Institution cease to operate as a private postsecondary educational institution, unless the Institution qualifies for an exemption under CEC section 94874. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including http://www.dianovainstitute.org/, and any other websites not identified here that are associated with the Institution, until an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers including, but not limited to, (650) 960-1094, that are associated with the Institution until an approval to operate is obtained from the Bureau. To comply with the Order of Abatement the Institution must submit a school closure plan to the Bureau pursuant to California Education Code section 94926. The Institution must provide a roster of each student currently enrolled at the Institution. The roster</p>

must include the names of the students, their contact information (including phone number, email address, and physical address), the programs in which they are enrolled, the amount paid for the programs.

Assessment of Fine

The fine for this violation is \$100,000.00

TOTAL ADMINISTRATIVE FINE DUE: \$100,000.00

ASSESSMENT OF A FINE

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

COMPLIANCE WITH ORDER OF ABATEMENT

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

APPEAL OF CITATION

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

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

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **July 4, 2019**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **June 4, 2019**. Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **July 4, 2019**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

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

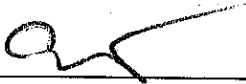
Payment of the administrative fine and/or written request for appeal must be mailed to:

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

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

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Cheryl Lardizabal, Citation Analyst, at 916-621-2591 or Cheryl.Lardizabal@dca.ca.gov.



Christina Villanueva
Discipline Manager

6/4/19

Date

Enclosures

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