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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 **JADE BEAUTY AND BARBER COLLEGE**
15 Application for Renewal of Approval to
Operate an Institution Non-Accredited
16 Institution Code No. 90323886
17 Respondent.

Case No. BPPE23-0160

OAH No. 2023080246

**FIRST AMENDED STATEMENT OF
ISSUES**

18
19 **PARTIES**

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

23 2. On or about November 18, 2020, the Bureau for Private Postsecondary Education
24 received an Application for Renewal of Approval to Operate an Institution Non-Accredited
25 (Renewal Application) from Respondent Jade Beauty and Barber College (Respondent).¹ On or
26 about August 26, 2020, Respondent signed its Renewal Application, under penalty of perjury, that

27
28 ¹ The Bureau previously granted Respondent approval to offer and provide instruction in the following programs: Barber, Cosmetology, Cosmetology/Barber Instructor, Esthetician, Manicurist, Massage Therapy.

1 the answers it provided in the Application and the documents attached to that Renewal
2 Application were true and correct. Between December 2020 and November 2022, the Bureau and
3 Respondent conferred regarding the Renewal Application, including Respondent’s transmittal of
4 additional application materials to cure deficiencies in the Renewal Application. On or about
5 February 7, 2023, the Bureau denied the Renewal Application via a Notice of Denial of
6 Application for Renewal of Approval to Operate. On or about February 17, 2023, Respondent
7 submitted to the Bureau a request for administrative hearing.

8 3. On or about August 1, 2023, the Bureau filed an initial Statement of Issues regarding
9 the various deficiencies in Respondent’s Renewal Application. Nearly four months later, on or
10 about November 29, 2023, Respondent offered the Bureau documents and information intended
11 to cure the deficiencies in its Renewal Application.

12 **JURISDICTION**

13 4. This First Amended Statement of Issues is brought before the Director of the
14 Department of Consumer Affairs (Director) for the Bureau for Private Postsecondary Education,
15 under the authority of the following laws. All section references are to the Education Code unless
16 otherwise indicated.²

17 5. Section 94817 states:

18 “Approval to operate’ or ‘approval’ means the authorization pursuant to this chapter to
19 offer to the public and to provide postsecondary educational programs, as well as the written
20 document issued to an institution signifying its approval to operate.”

21 6. Section 94817.5 states:

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

25 7. Section 94885, subdivision (a) states, in part:

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

28 ² All statutes and regulations cited are the versions in effect at the time the Bureau issued its
Notice of Denial of Application for Renewal of Approval to Operate (February 7, 2023).

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

2 ...

3 “(3) The facilities, instructional equipment, and materials are sufficient to enable students
4 to achieve the educational program’s goals.

5 ...

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

7 ...

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

10 8. Section 94886 states:

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

15 9. Section 94887 states:

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

21 10. Section 94891 states, in part:

22 “(a) The bureau shall adopt by regulation the process and procedures whereby an institution
23 may obtain a renewal of an approval to operate.

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

26 “(c)(1) An institution that is denied renewal of an approval to operate may file an appeal in
27 accordance with the procedures established by the bureau pursuant to Section 94888.

28 ////

1 “(2) An institution that has filed an appeal of a denial of a renewal application may continue
2 to operate during the appeal process, but must disclose in a written statement, approved by the
3 bureau, to all current and prospective students, that the institution’s application for renewal of
4 approval to operate was denied by the bureau because the bureau determined the application did
5 not satisfy the requirements to operate in California, that the institution is appealing the bureau's
6 decision, and that the loss of the appeal may result in the institution’s closure.

7”

8 **STATUTORY PROVISIONS**

9 11. Section 94834 states:

10 “‘Distance education’ means transmission of instruction to students at a location separate
11 from the institution.”

12 12. Section 94837 states:

13 “‘Educational program’ means a planned sequence composed of a set of related courses or
14 modules, or a single course or module if not offered as a component of a set of related courses or
15 modules, that provides education, training, skills, or experience, or a combination of these, except
16 that ‘educational program’ does not include a single course, workshop, seminar, continuing
17 education course, or other instruction that consists of 32 hours of instruction or less that is not
18 designed to lead to employment.”

19 13. Section 94893 states:

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

24 14. Section 94894, subdivision (g) states:

25 “The following changes to an approval to operate are considered substantive changes and
26 require prior authorization:

27 . . .

28 “(g) A significant change in the method of instructional delivery.”

1 15. Section 94895 states:

2 “The bureau shall, by January 1, 2011, adopt by regulation the process and procedures
3 whereby an institution shall seek authorization for substantive changes to an approval to operate.”

4 **REGULATORY PROVISIONS**

5 16. California Code of Regulations, title 5, section 70000, subdivisions (q) and (r) state:

6 “(q) ‘Mission’ means an institution’s stated educational reasons to exist. A mission
7 statement contains all of the following characteristics:

8 “(1) The mission includes the institution's broad expectations concerning the education that
9 students will receive, including the acquisition of the body of knowledge presented in the
10 educational program, the development of intellectual, analytical, and critical abilities, and the
11 fostering of values such as a commitment to pursue lifelong learning; and

12 “(2) The mission relates to the educational expectations of the institution's students, faculty
13 and community that the institution serves.

14 “(r) ‘Objectives’ are the goals and methods by which the institution fulfills its mission and
15 transforms it into measurable student learning outcomes for each educational program.”

16 17. California Code of Regulations, title 5, section 71100 states:

17 “(a) An applicant seeking approval to operate pursuant to Section 94886 of the Code, other
18 than Approval to Operate by Accreditation pursuant to Section 94890(a)(1) of the Code, shall
19 complete the “Application for Approval to Operate for an Institution Not Accredited,” Form
20 Application 94886 (rev. 2/10). An applicant seeking approval to operate by accreditation pursuant
21 to Section 94890(a)(1) of the Code shall comply with section 71390.

22 “(b) An applicant shall submit the completed form, the information or documentation
23 required by this Article, the appropriate application fee as provided in Section 94930.5(a)(1) of
24 the Code, and any appropriate annual fee as required by Article 1 of Chapter 5 of this Division, to
25 the Bureau.

26 “(c) An application that fails to contain all of the information required by this article shall
27 render it incomplete.”

28 ///

1 18. California Code of Regulations, title 5, section 71260, subdivision (d) states, in part:

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

5 . . .

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

9 19. California Code of Regulations, title 5, section 71400.5, subdivision (a) states:

10 “(a) The inclusion of false or misleading information, or the intentional or negligent
11 omission of pertinent information on any application may result in the denial of the application or
12 a delay in processing, and may be grounds for action pursuant to Article 18 of the Act.”

13 20. California Code of Regulations, title 5, section 71405 states:

14 “(a) If, after the submission of an application but prior to the Bureau's decision to approve
15 or deny an approval to operate, there is any material change in circumstances affecting any
16 information contained in the application or submitted by the institution in support of the
17 application, the institution shall immediately inform the Bureau in writing.

18 “(b) For the purposes of this section, a change in circumstance is “material” if, without the
19 inclusion of the new or different information into the application, the information contained in or
20 the supporting documentation to the application would be false, misleading, or incomplete.”

21 21. California Code of Regulations, title 5, section 71475 states, in part:

22 . . .

23 “(d) In addition to the form required in (b), the institution shall submit all information
24 required by section 71100(b), and the appropriate renewal fee as provided in Sections
25 94930.5(b)(1) and 94930.5(b)(2) of the Code, as applicable, to the Bureau. Except for the
26 financial statements required by subdivision (e) of this section and the statement required in
27 subdivision (f) of this section, if the information required in order to renew its approval to operate
28 is substantially similar to the information submitted by the institution in its last renewal

1 application, or initial application if it is the first renewal, the institution may state that there are no
2 substantial changes.

3 . . .

4 “(n) The institution shall describe in the application, in detail its mission and objectives. If
5 there have been no substantive changes since the last submission, the institution may so state and
6 is not required to submit documentation.

7 . . .

8 “(t) In addition, the institution shall list in the application, the following for each
9 educational program offered unless there have been no substantive changes since the last
10 submission. If there have been no substantive changes made the institution may so state and is not
11 required to provide documentation.

12 . . .

13 “(7) Whether the educational program is designed to fit or prepare students for employment
14 in any occupation. If so, the application shall identify each occupation and job title to which the
15 institution represents the educational program will lead.

16 “(v) If the institution offers an educational program, or a portion of it, in a language other
17 than English, the application shall contain a description of all of the following for each
18 educational program or portion thereof unless there have been no substantive changes since the
19 last submission. If there have been no substantive changes made the institution may so state and is
20 not required to provide documentation.

21 “(1) The language in which each educational program will be offered.

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

24 “(3) The language of the textbooks and other written materials to be used by each language
25 group of students

26 “(y)(1) For each program offered, the application shall contain a description of the facilities
27 and the equipment which is available for use by students at the main, branch, and satellite
28 locations of the institution unless there have been no substantive changes since the last

1 submission. If there have been no substantive changes made the institution may so state and is not
2 required to provide documentation.

3 . . .

4 “(3) The application shall include, in addition to the description of the physical facilities,
5 building diagrams or campus maps to assist the Bureau in locating these facilities. The diagrams
6 or maps shall identify the location of classrooms, laboratories, workshops, and libraries unless
7 there have been no substantive changes since the last submission. If there have been no
8 substantive changes made the institution may so state and is not required to provide
9 documentation.

10 . . .

11 “(z) The application shall include a description of library holdings, services, and other
12 learning resources, including policies and procedures for supplying them to students who do not
13 receive classroom instruction. The description need not consist of a list of each holding. The
14 description shall include an explanation of how the library and other learning resources are
15 sufficient to support the instructional needs of students and, if no facilities exist at the institution,
16 how and when students may obtain access to a library and other learning resources as required by
17 the curriculum unless there have been no substantive changes since the last submission. If there
18 have been no substantive changes made the institution may so state and is not required to provide
19 documentation.

20 . . .

21 “(kk) An incomplete application filed under this section will render the institution ineligible
22 for renewal.”

23 22. California Code of Regulations, title 5, section 71600, subdivision (a) states:

24 “(a) An institution seeking to make a significant change in its method of instructional
25 delivery shall complete the ‘Significant Change in Method of Instructional Delivery’ form (INS
26 rev. 2/10) to obtain prior authorization. For the purposes of this section a ‘significant change in
27 instructional delivery’ is any change that alters the way students interact with faculty or access
28 significant equipment. The form shall be submitted to the Bureau along with the appropriate fee

1 as provided in Section 94930.5(c) of the Code. For an institution approved under section 94885
2 of the Code, it shall be signed and dated by the signatory(ies) required by section 71380, and for
3 an institution approved under section 94890 of the Code, it shall be signed and dated by the
4 signatory(ies) required by section 71390, and each fact stated therein and each attachment thereto
5 shall be declared to be true under penalty of perjury, in the following form:

6 'I declare under penalty of perjury under the laws of the State of California that the
7 foregoing and all attachments are true and correct.

8 _____
9 (Date)

_____ (Signature)'''

10 23. California Code of Regulations, title 5, section 71700 states:

11 "The Bureau may request that an institution document compliance with the standards set
12 forth in the Act and this Division to obtain and maintain an approval to operate."

13 24. California Code of Regulations, title 5, section 71705 states:

14 "An institution shall have a written statement of its mission and the objectives for each
15 educational program. The mission and the objectives shall indicate the kind of education offered,
16 for whom the instruction is intended and the expected outcomes for graduates."

17 25. California Code of Regulations, title 5, section 71710 states, in part:

18 "In order to meet its mission and objectives, the educational program defined in section
19 94837 of the Code shall be comprised of a curriculum that includes:

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

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

24 "(c) course or module materials that are designed or organized by duly qualified faculty.

25 For each course or module, each student shall be provided with a syllabus or course outline that
26 contains:

27 . . .

28 ////

- 1 “(2) a statement of educational objectives;
2 “(3) length of the educational program;
3 “(4) sequence and frequency of lessons or class sessions;
4 “(5) complete citations of textbooks and other required written materials;
5 “(6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
6 learned and how those skills are to be measured;
7 “(7) instructional mode or methods.

8”

9 26. California Code of Regulations, title 5, section 71715 states, in part:

10 . . .

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

13 . . .

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

20 . . .

21 “(3) ensure that the materials and programs are current, well organized, designed by faculty
22 competent in distance education techniques and delivered using readily available, reliable
23 technology;

24”

25 27. California Code of Regulations, title 5, section 71720, subdivision (a)(1) states:

26 “(a) An Educational Program Leading to a Degree.

27 “(1) An institution offering an educational program that leads to a degree shall employ duly
28 qualified faculty sufficient in number to provide the instruction, student advisement, and learning

1 outcomes evaluation necessary for the institution to document its achievement of its stated
2 mission and objectives, and for students to achieve the specific learning objectives of each course
3 offered;”

4 28. California Code of Regulations, title 5, section 71730, subdivision (f) states:

5 “(f) The institution shall employ administrative personnel who have the expertise to ensure
6 the achievement of the institution's mission and objectives and the operation of the educational
7 programs.”

8 29. California Code of Regulations, title 5, section 71735 states:

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

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

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

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

27 ////

28 ////

1 30. California Code of Regulations, title 5, section 71740, subdivisions (b) and (c) state:

2 “(b) An institution shall provide or make provisions for the library and other learning
3 resources needed to support each educational program it offers, including resources such as
4 reference works, periodicals, monographs, and media and equipment specific to the educational
5 programs offered.

6 “(c) An institution shall describe onsite library and other learning resources, if any, that
7 enable students to pursue inquiries, searches for information and documentation, and assignments
8 connected with their study programs.”

9
10 **FACTUAL BACKGROUND, PART I**
(INSTRUCTION IN LANGUAGE OTHER THAN ENGLISH)

11 ***A. Respondent Represented that it Offers Instruction Only in English***

12 31. Respondent represented to the Bureau that it offers instruction only in English. In
13 particular:

14 a. In its Renewal Application, referenced in paragraph 2, above, Respondent
15 stated, under penalty of perjury, that it does not offer instruction in a language other than English.

16 b. In addition, Respondent attached to its Renewal Application a student catalog
17 that reads, in part: “Class instruction is given in English[.] Jade Beauty and Barber College does
18 not provide English as a second language instruction[.] The language proficiency in English
19 should be equivalent to 10th grade level and up.”

20 c. In the process of attempting to cure deficiencies in its Renewal Application, in
21 versions of the catalog Respondent submitted to the Bureau on or about March 20, 2021; April
22 10, 2021; and November 21, 2022, Respondent made the same representation: “Class instruction
23 is given in English. Jade Beauty and Barber College does not provide English as a second
24 language instruction. The language proficiency in English should be equivalent to 10th grade
25 level and up.”

26 ***B. Bureau Staff Witnessed Instruction in Vietnamese***

27 32. Contrary to these representations Respondent offers instruction in a language other
28 than English. In particular, during an onsite quality review visit on October 21, 2022, Bureau

1 staff witnessed theory instruction provided in Vietnamese.³ When Bureau staff sought to confer
2 with students, of the twenty-six students in attendance, twenty-three sought from Bureau staff a
3 Vietnamese-language survey to provide feedback, and most required a translator to communicate
4 with Bureau staff.

5 33. As stated in paragraph 3, above, on or about November 29, 2023, Respondent
6 provided the Bureau with documents and information to cure the deficiencies in its Renewal
7 Application. These materials state, in part, “Currently Jade College offers tutoring in Vietnamese
8 Language for students who need the assistance.” But the institution did not address the
9 observations of classroom instruction in Vietnamese on October 21, 2022, which occurred prior
10 to the Bureau’s denial of the Renewal Application. Respondent also has not explained what has
11 become, since that time, of Vietnamese students who were enrolled in its programs and who do
12 not have a sufficient mastery of English to receive instructional hours in a language other than
13 Vietnamese. No amount of tutoring will make up for students receiving instruction in a language
14 they do not understand.

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 (False or Misleading Information, or
17 Intentional or Negligent Omission of Pertinent Information)

18 34. Respondent’s Renewal Application is subject to denial based on its inclusion of false
19 or misleading information or the intentional or negligent omission of pertinent information in
20 violation of California Code of Regulations, title 5, section 71400.5, subdivision (a). (Educ. Code
21 § 94885, subd. (a)(9) and 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71100; 71400.5, subd.
22 (a); 71405; 71475, subd. (d); and 71700.) The circumstances are set forth in paragraphs 31
23 through 33, above.

24 **SECOND CAUSE FOR DENIAL OF APPLICATION**

25 (Failure to Provide Description of Instruction in Language Other than English)

26 35. Respondent’s Renewal Application is subject to denial based on its failure to include
27 disclosures related to the language(s) in which Respondent offers its educational programs.
(Educ. Code §§ 94885, subds. (a)(1), (a)(3), (a)(5) and 94891, subd. (b); and Cal. Code Regs.,

28 ³ Adding Vietnamese as a language for instruction is a significant change that requires Bureau approval pursuant to California Code of Regulations, title 5, section 71600, subdivision (a).

1 title 5, §§ 71475, subds. (v)(1), (v)(2), and (v)(3), and (kk) and 71700.) In particular, as described
2 in paragraphs 31 through 33, above:

3 a. The Renewal Application omits that educational programs are offered in
4 Vietnamese, in violation of California Code of Regulations, title 5, section 71475, subdivision
5 (v)(1).

6 b. The Renewal Application omits a statement that the institution has contracted
7 with sufficient duly qualified faculty who will teach in Vietnamese, in violation of California
8 Code of Regulations, title 5, section 71475, subdivision (v)(2).

9 c. The Renewal Application omits the actual language of the textbooks and other
10 written materials to be used by each language group of students, in violation of California Code
11 of Regulations, title 5, section 71475, subdivision (v)(3).

12
13 **FACTUAL BACKGROUND, PART II**
(INSTRUCTION AND DEGREES OFFERED)

14 ***A. Distance Education Instruction***

15 36. The Bureau previously approved Respondent to offer and provide distance education⁴
16 via a “hybrid course (theory only)” online method of instruction in the following programs:
17 Barber, Cosmetology, Cosmetology/Barber Instructor, Esthetician, and Manicurist. In its
18 Renewal Application, Respondent seeks to continue to offer and provide these programs via
19 distance education. But Respondent does not provide an explanation of how or where students
20 will access theory materials online. Nor has Respondent identified online theory instruction
21 resources which are current, well organized, designed by faculty competent in distance education
22 techniques and delivered using readily available, reliable technology. Although the Bureau
23 requested that Respondent “[p]rovide log-in access to the institution’s distance education
24 curriculum,” Respondent only provided a screenshot of its Learning Management System (LMS)
25 portal landing page. Accordingly, the Bureau could not establish if Respondent would or could
26 offer legally compliant distance education.

27 ////

28 ⁴ Section 94834 defines “distance education” as “transmission of instruction to students at a
location separate from the institution.”

1 37. As stated in paragraph 3, above, on or about November 29, 2023, Respondent
2 provided the Bureau with documents and information to cure the deficiencies in its Renewal
3 Application. But Respondent did not provide the Bureau with access to its online method(s) of
4 instruction for the Bureau to review. In addition, the catalog Respondent provided does not
5 clearly describe the online method(s) of instruction it would offer to students.

6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

7 (Instruction – Distance Education)

8 38. Respondent’s Renewal Application is subject to denial in that Respondent failed to
9 ensure that its distance education materials and programs are current, well-organized, designed by
10 faculty competent in distance education techniques and delivered using readily available, reliable
11 technology, as required by California Code of Regulations, title 5, section 71715, subdivision
12 (d)(3). (Educ. Code §§ 94885, subs. (a)(1) and (a)(3) and 94891, subd. (b); and Cal. Code
13 Regs., title 5, §§ 71700 and 71715, subd. (d)(3).) The circumstances are set forth in paragraphs
14 36 and 37, above.

15 ***B. Instruction Unrelated to Educational Program***

16 39. When Bureau staff visited the institution on October 21, 2022, one of the few
17 English-speaking students explained she is a Manicuring student. She confirmed that she attends
18 morning lecture to earn theory hours towards completion of her program, and she “clocked in”
19 accordingly when she arrived. But the scheduled class she was attending was directed at
20 Cosmetology students and was observed in part to include instruction in the area of facial care
21 and make-up (PowerPoint slides were generally in English despite verbal instruction being in
22 Vietnamese; white board notes were alternately in both languages).

23 40. While Cosmetology and Esthetician students may count instruction in such subjects
24 towards their theory hours, the Manicuring curriculum does not include instruction in these areas.
25 Thus, a student was observed to be earning credit for theory hours in a subject unrelated to her
26 program’s intended learning outcomes. A student earning hours for instruction in subjects
27 unrelated to their area of study will result in the student failing to acquire instruction in all of the

28 ///

1 subject areas that are necessary to achieve the educational objectives of the educational program
2 in which the student is enrolled.

3 41. As stated in paragraph 3, above, on or about November 29, 2023, Respondent
4 provided the Bureau with documents and information to cure the deficiencies in its Renewal
5 Application. However, Respondent did not provide any documents demonstrating that the
6 students who, according to Respondent’s proposed catalog: “choose to attend theory lectures on
7 campus,” will not be attending a singular group lecture, aimed collectively at all students enrolled
8 in different programs in the Cosmetology field despite their differing program objectives. Based
9 on Respondent’s November 29, 2023 submission, it appears that the practice of combining classes
10 where unnecessary (to some students) subjects are covered, necessary objectives are missed, and
11 career outcomes are jeopardized continues.

12 **C. Student Attendance**

13 42. Although approximately ninety-five students were enrolled in the institution at that
14 time, during their campus visit on October 21, 2022, Bureau staff observed that only
15 approximately twenty-six students were in attendance (between the hours of 9:30 am and 7:00
16 pm). Thus, only about one quarter of the students were in attendance during theory instruction in
17 the morning (some may have attended offsite using distance education) and during the designated
18 hours of practical instruction offered in the afternoon and evening.

19 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

20 (Educational Program)

21 43. Respondent’s Renewal Application is subject to denial in that Respondent’s
22 educational program is not sufficient to meet its mission and objectives or designed to lead to
23 employment. (Educ. Code §§ 94837; 94885, subd. (a)(1); and 94891, subd. (b); and Cal. Code
24 Regs, title 5, §§ 71475, subd. (t)(7); 71700; and 71710, subds. (a) and (b)). In particular, as
25 described in paragraphs 39 through 42, above:

26 a. Respondent’s educational program is not sufficient to meet its mission and
27 objectives in that Respondent’s curriculum includes subject areas that are unnecessary for a

28 ///

1 student to achieve the educational objectives of the educational program in which the student is
2 enrolled, as required by California Code of Regulations, title 5, section 71710, subdivision (a).

3 b. Respondent's educational program is not sufficient to meet its mission and
4 objectives in that Respondent's curriculum is not presented in a logically organized manner or
5 sequence to students, as required by California Code of Regulations, title 5, section 71710,
6 subdivision (b).

7 c. Respondent has failed to demonstrate that its educational program is designed
8 to lead to employment, as required by California Code of Regulations, title 5, section 71475,
9 subdivision (t)(7).

10 ***D. Unapproved Distance Education for Non-English Speaking Students***

11 44. As stated in paragraph 36, above, the Bureau approved Respondent's use of distance
12 education for the following programs, using Milady (by Cengage) software: Barber,
13 Cosmetology, Cosmetology/Barber Instructor, Esthetician, and Manicurist. To date, the Bureau
14 has not approved of Respondent providing instruction in Vietnamese, including distance
15 education in Vietnamese.

16 45. During the Bureau staff's visit on October 21, 2022, a Vietnamese-speaking student,
17 who did not competently speak English, explained with the assistance of a bilingual student
18 translator that she was enrolled in Respondent's distance education program and she was
19 permitted to earn theory hours by completing bookwork and exams at home.

20 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

21 (Unapproved Method of Instruction)

22 46. Respondent's Renewal Application is subject to denial in that Respondent made a
23 substantive change to its method of instruction without Bureau approval. (Educ. Code §§ 94885,
24 subs. (a)(1), (a)(3), and (a)(9); 94886; 94893; 94894, subd. (g); and 94895; and Cal. Code Regs.,
25 title 5, § 71600, subd. (a) and 71700.) The circumstances are set forth in paragraphs 44 through
26 45, above.

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FACTUAL BACKGROUND, PART III
(DESCRIPTION OF EDUCATIONAL PROGRAMS)

A. Cosmetology or Barber Instructor Syllabus

47. As stated in paragraph 3, above, on or about November 29, 2023, Respondent provided the Bureau with documents and information to cure the deficiencies in its Renewal Application. Respondent's Cosmetology or Barber Instructor syllabus, as amended, contain the following deficiencies:

- a. The syllabus is missing the sequence and frequency of class sessions.
- b. The syllabus does not include a complete textbook citation.
- c. The methods of instruction and how and when they will be employed for the achievement of objectives as well as the nature and use of instructional materials supporting educational objectives remain unclear.

SIXTH CAUSE FOR DENIAL OF APPLICATION

(Description of Educational Programs – Cosmetology or Barber Instructor Syllabus)

48. Respondent's Renewal Application is subject to denial in that Respondent's Cosmetology or Barber Instructor syllabus is not compliant with regulations intended to ensure that Respondent's educational program meets its missions and objectives. (Educ. Code §§ 94855, subd. (a)(1) and 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700; 71705; 71710, subds. (c)(4), and (c)(5); and 71715, subd. (b).) In particular:

- a. The syllabus does not state the sequence and frequency of lessons or class sessions, as required by California Code of Regulations, title 5, section 71710, subdivision (c)(4). The circumstances are set forth in paragraph 47, subdivision (a), above.
- b. The syllabus does not contain complete citations of textbooks and other required written materials, as required by California Code of Regulations, title 5, section 71710, subdivision (c)(5). The circumstances are set forth in paragraph 47, subdivision (b), above.
- c. Respondent has not documented that the instruction offered leads to the achievement of the learning objectives of each course, as required by California Code of Regulations, title 5, section 71715, subdivision (b). The circumstances are set forth in paragraph 47, subdivision (c), above.

1 **B. Massage Therapy Program**

2 49. As stated in paragraph 3, above, on or about November 29, 2023, Respondent
3 provided the Bureau with documents and information to cure the deficiencies in its Renewal
4 Application. Respondent’s Massage Therapy program syllabus, as amended, contain the
5 following deficiencies:

6 a. Respondent’s stated educational objectives are not consistent with other
7 information presented in the syllabus, where references to barbering, a “Learning Team Charter,”
8 papers (essays) and more do not obviously tie into Massage Therapy.

9 b. Scheduling information for nearly all programs offered by Respondent is
10 included on the syllabus, but with Morning, Afternoon and Evening hours all included. But it is
11 unclear when, during each day specifically, Massage Therapy students are required to attend.
12 Meeting times are identified for 8:30 a.m. to 5:30 p.m., Monday through Friday, and 8:30 a.m. to
13 6:00 p.m. on Saturday. When reviewing the syllabus in totality; however, students cannot
14 reasonably be expected to attend class for all of the 54.5 hours per week referenced.

15 c. The textbook information provided is incomplete and is on the subject of
16 barbering rather than massage.

17 50. Among the documents Respondent provided on or about November 29, 2023, are two
18 new documents related to Respondent’s Massage Therapy program. One document, titled
19 “MASSAGE THERAPHY (sic) SYLLABUS,” is apparently a syllabus intended to fulfill the
20 requirements of California Code of Regulations, title 5, section 71710, subdivision (c). The
21 second document, titled “600 HR JADE FOR MASSAGE THERAPIST CURRICULUM-2023-
22 24,” appears to contain an error in the title. Although the title indicates that Respondent’s
23 curriculum for its Massage Therapy program is 600 hours in length, all other documents
24 Respondent offered related to the program indicate that the program’s length is 500 hours. It is
25 unclear, based on these documents, what subject areas and/or skills will be taught in the Massage
26 Therapy Program, as stated below:

27 a. The curriculum document indicates the program “develops awareness
28 techniques using body mind metaphors, music, and movement, listening and seeing as well as

1 Anatomy and Physiology massages,” and there is no evidence of these subjects being covered in
2 either the program content chart/curriculum outline or on the submitted syllabus (including the
3 assigned chapter readings).

4 b. The syllabus contains numerous references to barbering, which is a subject not
5 relevant to massage therapy.

6 c. The syllabus indicates students will “Respond to weekly discussion topics and
7 questions. [...] The discussion topics and questions are listed at the end of the syllabus, by
8 weeks.” However, there are no discussion topics or questions at the end of the syllabus; thus, the
9 subjects (topics) to be covered have not been appropriately disclosed.

10 d. Students are asked to “Begin collaboration on the External/Internal Factors
11 Paper.” But no subject matter pertaining to external/internal factors and no assignments taking
12 the form of a collaborative essay are elsewhere referenced, nor do they seem to pertain to a
13 massage therapy program.

14 e. The syllabus proposes a method of instruction that the Bureau has not
15 approved. Specifically, Respondent does not have approval from the Bureau to offer its Massage
16 Therapy program via any form of distance learning. But Respondent’s proposed syllabus for its
17 Massage Therapy program references use of distance learning via hybrid or online instruction.

18 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

19 (Description of Educational Programs – Massage Therapy Program Syllabus)

20 51. Respondent’s Renewal Application is subject to denial in that Respondent’s Massage
21 Therapy program syllabus is not compliant with regulations intended to ensure that Respondent’s
22 educational program meets its missions and objectives. (Educ. Code §§ 94855, subd. (a)(1) and
23 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700; 71705; and 71710, subds. (c)(2), (c)(4),
24 (c)(5), (c)(6), and (c)(7).) In particular:

25 a. As stated in paragraph 49, subdivision (a), the syllabus does not contain a
26 statement of educational objectives, as required by California Code of Regulations, title 5, section
27 71710, subdivision (c)(2).

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1 b. As stated in paragraph 49, subdivision (b), the syllabus does not state the
2 sequence and frequency of lessons or class sessions, as required by California Code of
3 Regulations, title 5, section 71710, subdivision (c)(4).

4 c. As stated in paragraph 49, subdivision (c), the syllabus does not contain
5 complete citations of textbooks and other required written materials, as required by California
6 Code of Regulations, title 5, section 71710, subdivision (c)(5).

7 d. As stated in paragraph 50, the syllabus does not contain a sequential and
8 detailed outline of subject matter to be addressed or a list of skills to be learned and how those
9 skills are to be measured, as required by California Code of Regulations, title 5, section 71710,
10 subdivision (c)(6).

11 e. As stated in paragraph 50, the syllabus does not contain instructional mode or
12 methods, as required by California Code of Regulations, title 5, section 71710, subdivision (c)(7).

13 **C. *Distance Education Syllabi***

14 52. Through its Renewal Application, Respondent seeks to obtain Bureau approval to
15 continue to offer many of its programs through distance education via a “hybrid course (theory
16 only)” online method of instruction. Respondent’s syllabi references this method of instruction,
17 but the syllabi do not describe or identify how Respondent provides distance education. Instead,
18 the syllabi reference “Audios, visual films, tapes, disc, slides.” This statement is contrary to
19 Respondent’s representation to the Bureau that it continues to offer distance education via Milady
20 (by Cengage) software. Accordingly, Respondent’s Renewal Application inconsistently
21 communicates the methods by which the institution provides distance education.

22 53. In addition, none of Respondent’s syllabi offering distance education include
23 complete citations of textbooks to be used. Instead, Respondent only describes supplemental
24 learning materials.

25 54. Respondent apparently declined to address this issue in the documents and
26 information Respondent provided on or about November 29, 2023, as referenced in paragraph 3,
27 above.

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1 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

2 (Description of Educational Programs – Distance Education Syllabi)

3 55. Respondent’s Renewal Application is subject to denial in that Respondent’s syllabi
4 offering distance education are not compliant with regulations intended to ensure that
5 Respondent’s educational program meets its missions and objectives. (Educ. Code §§ 94855,
6 subd. (a)(1) and 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700 and 71710, subds. (c)(5)
7 and (c)(7).) In particular:

8 a. The syllabi do not state instructional mode or methods, as required by
9 California Code of Regulations, title 5, section 71710, subdivision (c)(7). The circumstances are
10 set forth in paragraphs 52 and 54, above.

11 b. The syllabi do not contain complete citations of textbooks and other required
12 written materials, as required by California Code of Regulations, title 5, section 71710,
13 subdivision (c)(5). The circumstances are set forth in paragraphs 53 and 54, above.

14 **FACTUAL BACKGROUND, PART IV**
15 **(FACILITIES AND EQUIPMENT)**

16 ***A. Respondent’s Campus Maintenance***

17 56. During their October 21, 2022 campus visit, Bureau staff observed that the campus
18 was in need of cleaning and clearing of clutter. The campus could not reasonably be described as
19 well-maintained.

20 57. Respondent apparently declined to address this issue in the documents and
21 information Respondent provided on or about November 29, 2023, as referenced in paragraph 3,
22 above.

23 **NINTH CAUSE FOR DENIAL OF APPLICATION**

24 (Facility Maintenance)

25 58. Respondent’s Renewal Application is subject to denial in that the institution’s
26 facilities are not well-maintained, as required by California Code of Regulations, title 5, section
27 71735, subdivision (b). (Educ. Code §§ 94885, subd. (a)(3) and 94891, subd. (b); and Cal. Code

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1 Regs., title 5, §§ 71700 and 71735, subd. (b).) The circumstances are set forth in paragraphs 55
2 and 56, above.

3 ***B. Respondent's Facilities are Inadequate***

4 59. During their October 21, 2022 campus visit, Bureau staff found that Respondent's
5 location lacks sufficient facility space to deliver all approved programs. In addition, the Bureau
6 staff observed that no section of the campus is set up to offer Respondent's Massage Therapy
7 program.

8 60. As stated in paragraph 3, above, on or about November 29, 2023, Respondent
9 provided the Bureau with documents and information to cure the deficiencies in its Renewal
10 Application. The campus diagram Respondent provided does not demonstrate that Respondent
11 has sufficient facilities to support all programs.

12 61. In addition, among the documents and information Respondent provided on or about
13 November 29, 2023, Respondent described library and other learning resources for programs in
14 the Barbering and Cosmetology field. But Respondent did not explain how the resources are
15 sufficient to support the instructional needs of students enrolling in its Massage Therapy program.
16 No library or other learning resources were identified in support of that program.

17 **TENTH CAUSE FOR DENIAL OF APPLICATION**

18 (Insufficient Facilities)

19 62. Respondent's Renewal Application is subject to denial in that Respondent lacks
20 sufficient facilities to support the achievement of the educational objectives of all of the courses
21 and educational programs in which students are enrolled, as required by California Code of
22 Regulations, title 5, section 71735, subdivision (a). (Educ. Code §§ 94885, subd. (a)(3) and
23 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700; 71735, subd. (a); 71740, subds. (b) and
24 (c); and 71475, subds. (y)(1) and (z).) The circumstances are set forth in paragraphs 59 through
25 61, above.

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1 **C. Respondent's Inaccurate Description of Facilities**

2 63. During their October 21, 2022 campus visit, Bureau staff found that Respondent's
3 campus diagram/map is not consistent with how the space is actually used. In particular:

4 a. The nail care area was actually used as lockers and storage (including large
5 precariously stacked boxes).

6 b. Students were setting up for Manicuring practicals on the main floor walkway
7 adjacent the main lecture room.

8 c. While a separate eating area is identified in the catalog, students were observed
9 eating lunch in the same area as practicals subsequently took place.

10 64. Respondent apparently declined to address this issue in the documents and
11 information Respondent provided on or about November 29, 2023, as referenced in paragraph 3,
12 above.

13 **ELEVENTH CAUSE FOR DENIAL OF APPLICATION**

14 (Inaccurate Description of Facilities)

15 65. Respondent's Renewal Application is subject to denial in that it contains an
16 inaccurate description of the institution's facilities, in violation of California Code of Regulations,
17 title 5, section 71475, subdivision (y)(1). (Educ. Code §§ 94885, subd. (a)(3) and 94891, subd.
18 (b); and Cal. Code Regs., title 5, §§ 71700 and 71475, subds. (y)(1) and (y)(3).) The
19 circumstances are set forth in paragraphs 63 and 64, above.

20 **D. Respondent's Equipment**

21 66. During their October 21, 2022 campus visit, Bureau staff found insufficient necessary
22 equipment available for use, and that Respondent's list of equipment referenced the institution's
23 catalog is more extensive than the equipment available. For example:

24 a. Six hair dryers are referenced in Respondent's catalog, but Bureau staff did not
25 observe any.

26 b. Fifteen styling/barber chairs are referenced in Respondent's catalog, but Bureau
27 staff observed fewer than half that number.

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1 c. Six proper manicure stations are referenced in Respondent’s catalog, but the
2 Bureau staff did not find any proper manicure stations. Rather, instruction was provided using
3 repurposed desks moved to another section of the room after lecture.

4 d. Not all sinks/hair washing stations were attached to a water source.

5 e. No massage program equipment was identified on campus at all.

6 67. Respondent apparently declined to address this issue in the documents and
7 information Respondent provided on or about November 29, 2023, as referenced in paragraph 3,
8 above.

9 **TWELFTH CAUSE FOR DENIAL OF APPLICATION**

10 (Insufficient Equipment)

11 68. Respondent’s Renewal Application is subject to denial in that Respondent lacks
12 necessary equipment to support the achievement of the educational objectives of all of the courses
13 and educational programs in which students are enrolled as required by California Code of
14 Regulations, title 5, section 71735, subdivision (a). (Educ. Code §§ 94885, subd. (a)(3) and
15 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700; 71735, subd. (a); and 71475, subd.
16 (y)(1).) The circumstances are set forth in paragraphs 66 and 67, above.

17 **THIRTEENTH CAUSE FOR DENIAL OF APPLICATION**

18 (Inaccurate Description of Equipment)

19 69. Respondent’s Renewal Application is subject to denial in that it contains an
20 inaccurate description of the institution’s equipment, in violation of California Code of
21 Regulations, title 5, section 71475, subdivision (y)(1). (Educ. Code §§ 94885, subd. (a)(3) and
22 94891, subd. (b); and Cal. Code Regs., title 5, §§ 71700 and 71475, subd. (y)(1).) The
23 circumstances are set forth in paragraphs 66 and 67, above.

24 **FACTUAL BACKGROUND, PART V**
25 **(MISSION AND OBJECTIVES)**

26 70. As stated in paragraph 3, above, on or about November 29, 2023, Respondent
27 provided the Bureau with documents and information to cure the deficiencies in its Renewal
28 Application. These new documents and information appear to demonstrate that Respondent

1 cannot successfully carry out its stated mission and objectives with regards to its Massage
2 Therapy and Cosmetology/Barber Instructor programs.

3 71. In particular, Respondent’s Mission and Objectives, as stated in those documents,
4 imply that all programs “will prepare students to pass the State Board of Cosmetology
5 Examination for their course of study,” “prepare all students with the necessary skills and
6 knowledge to pass the exam,” and “[t]he school continually monitors and maintains the quality of
7 its programs of study in accordance with standards set forth by the State Board of Cosmetology.”
8 But none of these statements, which appear to be central to the institution’s mission and
9 objectives, pertain to its Massage Therapy program. That is because Massage Therapy students
10 do not qualify for the State Board of Cosmetology’s examination, they will not be prepared with
11 the necessary skills and knowledge to pass any licensure or certification exam, and the program
12 quality cannot be in accordance with the State Board of Cosmetology standards because the State
13 Board of Cosmetology does not have standards for massage therapy programs. Massage therapy
14 programs are not within the State Board of Cosmetology’s jurisdiction.

15 72. In addition, Respondent’s Cosmetology and Barber instructor programs do not lead to
16 a license exam as individuals seeking to instruct Board of Barbering and Cosmetology programs
17 are already appropriately licensed.

18 **FOURTEENTH CAUSE FOR DENIAL OF APPLICATION**

19 (Mission and Objectives)

20 73. Respondent’s Renewal Application is subject to denial in that, as stated in paragraphs
21 70 through 72, above, Respondent offered a proposed Mission and Objectives, as required by
22 California Code of Regulations, title 5, sections 70000, subdivisions (q) and (r); 71475,
23 subdivision (n); and 71705. But Respondent cannot successfully carry out its stated mission and
24 objectives with regards to its Massage Therapy and Cosmetology/Barber Instructor programs. As
25 a result, Respondent’s Renewal Application is subject to denial on the following bases:

26 a. Because Respondent’s proposed Mission and Objectives are not achievable,
27 Respondent’s Mission and Objectives constitute false or misleading information. (Educ. Code §§
28 94885, subd. (a)(9) and 94891, subd. (b); and Cal. Code Regs., title 5, § 71400.5, subd. (a).)

1 b. Because Respondent's objectives are not achievable, Respondent cannot
2 document that its proposed instruction leads to the achievement of the learning objectives of each
3 course. (Educ. Code §§ 94885, subs. (a)(1) and (a)(9), and 94891, subd. (b); and Cal. Code
4 Regs., title 5, § 71715, subd. (b).)

5 c. Because Respondent's objectives are not achievable, Respondent proposed
6 facilities and equipment are not sufficient to enable students to achieve its educational objectives.
7 (Educ. Code §§ 94885, subs. (a)(3) and (a)(9), and 94891, subd. (b); and Cal. Code Regs., title 5,
8 §§ 71260, subs. (a) and (d) and 71735, subd. (a).)

9 d. Because Respondent's mission and objectives are not achievable, Respondent's
10 proposed administrative personnel and faculty lack the ability to ensure the achievement of
11 Respondent's mission and objectives. (Educ. Code §§ 94885, subs. (a)(5) and (a)(9), and 94891,
12 subd. (b); and Cal. Code Regs., title 5, §§ 71720, subd. (a)(1) and 71730, subd. (f).)

13 **PRAYER**

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

- 17 1. Denying the Application for Renewal of Approval to Operate and Offer Educational
18 Programs for Non-Accredited Institutions of Jade Beauty and Barber College; and
- 19 2. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 1/12/2024

"Original Signature on File"

DEBORAH COCHRANE
Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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