

1 XAVIER BECERRA  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 NICOLE R. TRAMA  
Deputy Attorney General  
4 State Bar No. 263607  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9441  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

14 In the Matter of the Accusation Against: 15 <b>ADVANCE BEAUTY COLLEGE, INC.,</b> 16 <b>DBA ADVANCE BEAUTY COLLEGE</b> 17 <b>10121 Westminster Avenue</b> 18 <b>Garden Grove, CA 92843</b> 19 <b>Approval to Operate an Institution -</b> <b>Accredited</b> 20 <b>School Code 3012821</b> 21 Respondent.	Case No. 1001552  <b>A C C U S A T I O N</b>
--	--

24 Complainant alleges:

25 **PARTIES**

26 1. Dr. Michael Marion, Jr. (Complainant) brings this Accusation solely in his official  
27 capacity as the Chief of the Bureau for Private Postsecondary Education, Department of  
28 Consumer Affairs.



1 (2) A material violation or repeated violations of this chapter or regulations  
2 adopted pursuant to this chapter that have resulted in harm to students. For  
3 purposes of this paragraph, "material violation" includes, but is not limited to,  
4 misrepresentation, fraud in the inducement of a contract, and false or misleading  
5 claims or advertising, upon which a student reasonably relied in executing an  
6 enrollment agreement and that resulted in harm to the student.

7 ...

8 (c) The bureau may seek reimbursement pursuant to Section 125.3 of the  
9 Business and Professions Code.

10 ....

11 7. Business and Professions Code section 118 states, in part:

12 ...

13 (b) The suspension, expiration, or forfeiture by operation of law of a license  
14 issued by a board in the department, or its suspension, forfeiture, or cancellation  
15 by order of the board or by order of a court of law, or its surrender without the  
16 written consent of the board, shall not, during any period in which it may be  
17 renewed, restored, reissued, or reinstated, deprive the board of its authority to  
18 institute or continue a disciplinary proceeding against the licensee upon any  
19 ground provided by law or to enter an order suspending or revoking the license or  
20 otherwise taking disciplinary action against the licensee on any such ground.

21 (c) As used in this section, "board" includes an individual who is authorized  
22 by any provision of this code to issue, suspend, or revoke a license, and "license"  
23 includes "certificate," "registration," and "permit."

24 8. Business and Professions Code section 477 states:

25 As used in this division:

26 (a) "Board" includes "bureau," "commission," "committee," "department,"  
27 "division," "examining committee," "program," and "agency."

28 (b) "License" includes certificate, registration or other means to engage in a  
business or profession regulated by this code.

### STATUTORY AND REGULATORY PROVISIONS

9. Section 94894 of the Education Code states:

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

...

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

...

10. Section 94897 of the Education Code states:

An institution shall not do any of the following:

...

(j) In any manner make an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information, including any of the following:

(1) A financial report filed with the bureau.

(2) Information or records relating to the student's eligibility for student financial aid at the institution.

(3) Any other record or document required by this chapter or by the bureau.

....

11. California Code of Regulations, title 5, section 71710 provides:

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

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

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

...

(e) specific learning outcomes tied to the sequence of the presentation of the material to measure the students' learning of the material; and

....

12. California Code of Regulations, title 5, section 71715 states:

(a) Instruction shall be the central focus of the resources and services of the institution.

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

1 (c) Direct instruction requires the physical presence of one or more students  
2 and one or more faculty members at the same location. Direct instruction includes  
3 instruction presented in a classroom, seminar, workshop, lecture, colloquium,  
laboratory, tutorial, or other physical learning settings consistent with the mission,  
purposes, and objectives of the institution.

4 . . . .

5 13. California Code of Regulations, title 5, section 71760 states

6 Each institution shall develop and maintain adequate procedures used by the  
7 institution to assure that it is maintained and operated in compliance with the Act  
and this Division.

8 **COST RECOVERY**

9 14. Business and Professions Code section 125.3 provides, in pertinent part, that the  
10 Board may request the administrative law judge to direct a licentiate found to have committed a  
11 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
12 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the  
13 license to not being renewed or reinstated. If a case settles, recovery of investigation and  
14 enforcement costs may be included in a stipulated settlement.

15 **FACTUAL ALLEGATIONS**

16 15. On or about May 31, 2018, the Bureau's Enforcement and Compliance staff and the  
17 Deputy Executive Officer of the Board of Barbering and Cosmetology conducted an  
18 unannounced joint compliance inspection at Respondent's main location in Garden Grove,  
19 California. The inspection included touring the facility, observing classes in session, gathering  
20 student records and interviewing the owners, faculty and students.

21 16. During the inspection, Bureau staff observed Respondent's instructors delivering  
22 instruction to students in Vietnamese, which is not a Bureau approved method of instruction for  
23 Respondent. Respondent also had admissions applications, enrollment agreements and financial  
24 agreements in the Vietnamese language.

25 17. Bureau staff also discovered that Respondent skipped whole portions of the required  
26 training modules for the Cosmetology program. The weekly schedule as listed in the Manicurist  
27 weekly schedule was not adhered to. Respondent's owners admitted that Respondent's  
28

1 instructors would change or skip scheduled theory training for other practical training subjects.  
2 Bureau staff discovered that theory (lecture) and training hours did not match, and that theory  
3 training hours did not make sense on the students' timesheets that they reviewed. Respondent's  
4 instructors told Bureau staff that they did not receive a daily lesson plan or adhere to the class  
5 schedule.

6 18. Bureau staff also discovered that Respondent failed to adhere to their own Student  
7 Clock Hour and Time Card Credit Policies. In fact, Respondent's instructors signed student  
8 timesheets to certify student training clock hours even though the student did not complete those  
9 clock hours for that training day. Students were granted clock hours for training they did not  
10 attend or receive for the day and/or week. For example, one student was provided five clock  
11 hours credit for the training day of May 31, 2018, even though her training class had only started  
12 two hours prior. Respondent's staff admitted to providing student hours where hours were  
13 needed or were short, instead of providing the hours for what was actually being taught.  
14 Respondent's owners were aware of their instructor's practices, but they did not take any action  
15 to correct it. In addition, training hours did not match up with the student's timesheets in  
16 conjunction with the school's use of approved textbooks.

17 19. Respondent was also unable to produce to the Bureau self-monitoring or compliance  
18 procedures, either in written or electronic format. Respondent's owners admitted that they did  
19 not have a full-time compliance officer, even though Respondent's organization chart lists a  
20 compliance officer position.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Engaging in Prohibited Business Practices)**

23 **(Cal. Ed. Code, § 94897(j))**

24 20. Respondent has subjected its approval to operate to disciplinary action under  
25 California Education Code section 94897, subdivision (j), for making untrue or misleading  
26 changes in, and/or making untrue or misleading statements related to a record indicating student  
27 completion or other document required by the Bureau, by allowing inconsistent and false  
28 documenting of student training hours, as set forth in paragraphs 15 through 19, above.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Educational Program)**

3 **(Title 5, Cal. Code Regs., § 71710 (a)(b)(e))**

4 21. Respondent has subjected its approval to operate to disciplinary action under title 5,  
5 CCR, section 71710, subdivisions (a)(b) and (e) for failing to follow a curriculum that meets  
6 requirements, in that Respondent did not adhere to the Manicurist weekly schedule, Respondent's  
7 instructors changed or skipped schedule theory training for other practical training subjects,  
8 Respondent's instructors signed student timesheets to certify student training clock hours that  
9 were not completed, and theory training did not match student's timesheets in conjunction with  
10 the school's use of approved textbooks, as set forth in paragraphs 15 through 19, above.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Failure to Meet Minimum Operating Standards - Instruction)**

13 **(Title 5, Cal. Code Regs., § 71715 (b))**

14 22. Respondent has subjected its approval to operate to disciplinary action under title 5,  
15 CCR, section 71715(b) in that Respondent's instruction did not lead to the achievement of the  
16 learning objectives of each course, in that Respondent's instructors signed student timesheets to  
17 certify student training clock hours they did not receive for that day, Respondent did not adhere to  
18 the Manicurist weekly training schedule, and Respondent did not complete schedule theory  
19 training, as more fully set forth in paragraphs 15 through 19 above and incorporated herein.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Failure to Meet Minimum Operating Standards – Self-Monitoring Procedures)**

22 **(Title 5, Cal. Code Regs., § 71760)**

23 23. Respondent has subjected its approval to operate to disciplinary action under title 5,  
24 CCR, section 71760 in that Respondent failed to develop and maintain adequate procedures used  
25 by the institution to assure that it is maintained and operated in compliance with the Act and the  
26 Bureau's regulations, when Respondent failed to employ a full-time compliance officer despite its  
27 organization chart indicating such position, failed to produce self-monitoring or compliance  
28 procedures for the Bureau and failed to take action to correct the unethical and fraudulent

1 practices of their instructors despite having knowledge of same, as more fully set forth in  
2 paragraphs 15 through 19 above and incorporated herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Notification of Substantive Change)**

5 **(Cal. Ed. Code, § 94894(g))**

6 24. Respondent is subject to disciplinary action under California Education Code section  
7 94894, subdivision (g), for failing to notify the Bureau of a substantive change, such as a change  
8 in the method of instructional delivery (instruction in Vietnamese), and receiving prior approval,  
9 as more fully set forth in paragraphs 15 through 19 above and incorporated herein.

10 **PRAYER**


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

14 1. Revoking or suspending the Approval to Operate an Accredited Institution, School  
15 Code 3012821, issued to Advance Beauty College, dba Advance Beauty College (Respondent).

16 2. Ordering Respondent to pay the Bureau for Private Postsecondary Education the  
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
18 Professions Code section 125.3; and,

19 3. Taking such other and further action as deemed necessary and proper.

20  
21  
22 DATED: 4/1/19

  
23 DR. MICHAEL MARION, JR.  
24 Chief  
25 Bureau for Private Postsecondary Education  
26 Department of Consumer Affairs  
27 State of California  
28 *Complainant*

SD2018702516  
71779582.docx