



Bureau for Private Postsecondary Education
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APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

January 12, 2017

National University, Inc., Owner
 WestMed College
 3031 Tisch Way, Suite 100 Plaza East
 San Jose, CA 95128

Date of Issuance	Citation Number	Institution Code
January 12, 2017	1617025	4304901

On December 5, 2016, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 1617025 (Citation) against National University, Inc., owner of WestMed College. In attendance were Yvette Johnson, Enforcement Chief; Mina Hamilton, DCA Counsel; Jeremy Lyons, President; and Pablo Fabian, Attorney for owner.

Pursuant to Business and Professions Code, §125.9; California Education Code, §94936; and Title 5 of the California Code of Regulations, §75020 and §75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 1617025.

It is the decision of the Bureau Chief that on January 12, 2017 Citation No. 1617024 is modified and makes the following change(s):

VIOLATION CODE SECTIONS

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the section(s) you are charged with violating.
1.	<p>Violation: CEC 94900.5(b) – Required Institutional Records <i>“An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information: (b) The names and addresses of the members of the institution’s faculty and records of the educational qualifications of each member of the faculty.”</i></p> <p>CEC 94932 - Enforcement Authority <i>“The bureau shall determine an institution’s compliance with the requirements of this chapter. The</i></p>

bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor 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."

5, CCR 71930(e) - Maintenance of Records.

"(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations."

On August 19, 2015, during a site investigation at WMC, Bureau staff requested copies of faculty files for S.T. and S.S. WMC failed to produce those faculty files because WMC's Senior Campus Director R.A. had limited access to WMC's electronic database and was not adequately trained to use that database. Furthermore, the hard copies for those faculty files were stored at WMC's Merced, California campus. WMC produced a copy of S.T.'s faculty file on September 4, 2015. WMC produced an electronic version of S.S.'s faculty file on October 1, 2015. However, S.S.'s faculty file did not include an address, records of educational qualifications, or records of work experience.

Order of Abatement:

The Bureau orders WMC to maintain complete and accurate faculty files including educational qualifications and work experience. Files need to be readily available upon request to the Bureau, located at WMC's place of business, and must contain the educational qualifications of each member of the faculty, pursuant to CEC 94900.5(b).

Assessment of Fine:

The fine for this violation is \$501.00

2. **Violation:**

5, CCR 71930(c)(3), (e) – Maintenance of Records

"(c) A record is considered current for three years following a student's completion or withdrawal. A record may be stored on microfilm, microfiche, computer disk, or any other method of record storage only if all of the following apply:

(3) The institution has personnel scheduled to be present at all times during normal business hours who know how to operate the devices and can explain the operation of the devices to any person authorized by the Act to inspect and copy records; and

(e) All records that the institution is required to maintain by the Act or this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the Bureau and any entity authorized to conduct investigations."

CEC 94932 - Enforcement Authority

"The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor 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."

On August 19, 2015, Bureau staff performed a site investigation at WMC. WMC's Senior Campus Director R.A. could not produce copies of the student files requested by Bureau staff during that site investigation because he had limited access to WMC's electronic database and was not adequately trained to use that database. Furthermore, the hard copies for those student files were stored at WMC's Merced, California campus. WMC did not produce all of the requested student files until August 30, 2015.

Order of Abatement:

The Bureau orders that WMC make all records immediately available to Bureau staff upon request.

Assessment of Fine:

The fine for this violation is \$501.00

3. **Violation:**

5, CCR 71710(a) – Educational Program

"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;"

5, CCR 71715(b) – Instruction

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

CEC 94885(a)(1), (3) - Minimum Operating Standards

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

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

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

CCR Title 22, Division 9, 100152(c) - Hospital Clinical Education and Training for Paramedic

"An approved paramedic training program and/or CCP training program shall not enroll any more students than the training program can commit to providing a clinical internship to begin no later than thirty (30) days after a student's completion of the didactic and skills instruction portion of the training program. The paramedic training program course director and/or CCP training program course director and a student may mutually agree to a later date for the clinical internship to begin in the event of special circumstances (e.g., student or preceptor illness or injury, student's military duty, etc.)."

WMC was unable to place three of its paramedic students into clinical internships within 30 days of graduating as required by CCR Title 22, Division 9, § 100152(c). The didactic portion of their course finished on April 30, 2013. As of June 25, 2013, WMC had not placed E.H., J.W., and W.T. into clinical internships because it did not contract for enough clinical internship placements. It took WMC at least 56 days to place E.H., J.W., and W.T. into clinical internships. According to WMC's School Catalog, paramedic students are required to complete 160 clinical internship hours. These delays impeded the student's ability to achieve the educational objectives of the program in which they were enrolled, in violation of 5, CCR 71710(a).

	<p>Reason for modification: WMC was initially unable to place E.H., J.W., and W.T. into clinical externships due to external factors. However, WMC mitigated this situation by placing E.H., J.W., and W.T. into clinical externships as soon as they were able to do so.</p> <p>The administrative fine for this violation has been modified from \$5,000.00 to <u>\$1,001.00</u>.</p>
4.	<p>Violation: 5, CCR 71720 (b)(3)– Faculty “(b) Instructors in an Educational Program Not Leading to a Degree. (3) The institution shall not employ or continue to employ an instructor who was adjudicated in a judicial or administrative proceeding as having violated any provision of the Act or this chapter, or as having committed any act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code.”</p> <p>CEC 94885 (a)(5)- Minimum Operating Standards “(a) The bureau shall adopt by regulation minimum operating standards for an institution that shall reasonably ensure that all of the following occur: (5) The directors, administrators, and faculty are properly qualified.”</p> <p>B&P 480 (a)(3)(A) – Denial of Licenses “(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following: (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.”</p> <p>According to the Board of Registered Nursing (BRN), on February 16, 2013, it revoked S.T.’s nursing license for drug theft. However, WMC continued to employ S.T. for at least 14 months after she notified WMC about the loss of her license. S.T. was adjudicated in an administrative proceeding for committing an act that constituted grounds for the denial of a license, and as a result WMC should not have maintained her as an instructor, per 5, CCR 71720(b)(3).</p> <p>Order of Abatement: The Bureau orders that WMC discontinue employing instructors who were adjudicated for committing an act that would constitute grounds for the denial of a license under Section 480 of the Business and Professions Code.</p> <p>Assessment of Fine: The fine for this violation is <u>\$2,501.00</u></p>
<p>TOTAL MODIFIED ADMINISTRATIVE FINE DUE: <u>\$4,504.00</u></p>	

ORDER OF ABATEMENT

The Bureau orders that you comply with the orders described in the 'Violation Code Sections' of this document and submit evidence of compliance within 30 days from the date of this decision.

PENALTY – ASSESSMENT OF A FINE

Payment of the administrative fine is due within 30 days from the date of this decision. Please complete the Payment of Fine form. Payment must be made to the Bureau by check, or money order. Please include the citation number on the payment of the fine assessment. Payment of the administrative fine shall not constitute an admission of the violation(s) charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure. Payments may be mailed to:

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

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this affirmed Citation. You *do*, however, have the right to appeal this affirmed Citation through an Administrative Hearing, *only if* you initially requested one within 30 days from the issuance date of the original citation. A hearing before an Administrative Law Judge will be scheduled and you will be notified of the hearing date. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If you did not initially request an Administrative Hearing within 30 days from when the original citation was issued, you can no longer request one.

If you do not wish to appeal this affirmed Citation you must withdraw your initial request for an Administrative Hearing, if one was made. Please complete and mail the enclosed Withdrawal – Request for Administrative Hearing within **30 Days** of the date of this decision.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This affirmed Citation is effective on **JANUARY 12, 2017**. The order of abatement and payment are due by **FEBRUARY 11, 2017**.

Failure to abate the violation or to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Affirmed 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 decision or desire further information, please contact Ben Graber, Enforcement Analyst, at (916) 576-2409 or at benjamin.graber@dca.ca.gov.



YVETTE JOHNSON
ENFORCEMENT CHIEF

1/12/17

DATE

Enclosures

- Payment of Fine – Waiver of Appeal Rights
- Withdrawal – Request for Administrative Hearing
- Notice of Appeal
- Statement of Rights
- Copy of Citation Order Number