



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

September 21, 2021

Melissa Byrne, Owner
Arches Eyebrow Microblading, LLC
555 5th Street West
Sonoma, CA 95476

Date of Issuance	Citation Number	Institution Code
September 21, 2021	2021246	Unapproved

On June 26, 2021, an informal telephone conference was held in the matter of Citation: Assessment of Fine or Order of Abatement No. 2021246 (Citation) against Melissa Byrne, Owner of Arches Microblading, LLC., (Institution). In attendance were Yvette Johnson, Administrative Chief, Linh T. Nguyen, Department of Consumer Affairs Legal Counsel, Melissa Byrne, Owner, and Adam Richards, Arches Eyebrow Microblading, LLC, Legal Counsel.

Pursuant to Business and Professions Code, section 148; California Education Code (CEC), section 94944; and Title 5 of California Code of Regulations (5, CCR), section 75020 and section 75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 2021246.

It is the decision of the Insert Administrative Chief that on July 14, 2021, Citation No. 2021246 is modified and makes the following change(s):

VIOLATION CODE SECTIONS

#	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><u>Violation:</u></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</p>

“To offer to the public” means to advertise, publicize, solicit, or recruit.”

CEC Section 94869. To Operate

“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.”

On February 25, 2020, the Bureau received a complaint that the Institution was operating without Bureau approval.

On April 1, 2021, Bureau staff reviewed the Institution’s website and found the following course being offered from June 23, 2021 through June 25, 2021:

- 3-day Microblading Training for \$3,500

On April 1, 2021, Bureau staff sent email correspondence to the Institution asking questions regarding if experience is needed to enroll, were there openings for June 2021 classes, and if the total cost of the program, including any starter kits, was to change before the June 2021 classes.

Bureau staff received email correspondence from Institution staff in response to the Bureau’s questions and stated that experience was not necessary, the June 2021 classes are still open for enrollment, the information on the their website regarding total cost of program and kit are up to date, and the \$3,500 cost of the program is not subject to change before the June 2021 classes begin.

On April 5, 2021, Bureau staff reviewed the Institution’s Instagram (social media) page and found multiple posts advertising microblading classes.

As of April 28, 2021, the Institution is continuing to offer courses over \$2,500 and is therefore operating without Bureau approval or a valid exemption.

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.sonomabrowstudio.com>., and any other websites not identified here that are associated with the Institution, until such time as an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers that are associated with the Institution until such time as 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 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.

Modified Order of Abatement: To comply with the Order of Abatement the Institution must submit the outstanding school closure plan to the Bureau pursuant to California Education Code section 94926.

	<p>Reason for Modification: New substantive facts were provided at the informal conference. Partial abatement submitted.</p> <p>Assessment of Fine The fine for this violation is <u>\$25,000.00</u></p> <p>The administrative fine has been modified from <u>\$25,000.00</u> to <u>\$5,000.00</u>.</p>
TOTAL MODIFIED ADMINISTRATIVE FINE DUE: <u>\$5,000.00</u>	

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:

Gabriella Perez, Discipline Citation Program
Bureau for Private Postsecondary Education
1747 N. Market Blvd., Suite 225
Sacramento, CA 95834

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. You *do*, however, have the right to appeal this affirmed or modified Citation through an Administrative Hearing. 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 do not wish to appeal this modified 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 modified Citation is effective on **September 21, 2021**. The Order of Abatement and payment are due by **October 21, 2021**.

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 Modified 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 Gabriella Perez Citation Analyst, at (916) 574-8969 or at Gabriella.Perez@dca.ca.gov.

“Original Signature on File”

“9/21/2021”

Christina Villanueva
Discipline Manager

Date

Enclosures

- Payment of Fine – Waiver of Appeal Rights
- Withdrawal- Request for Administrative Hearing
- Declaration of Service by Certified and First-Class Mail