



CALIFORNIA MASSAGE THERAPY COUNCIL

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VIA ELECTRONIC MAIL

January 4, 2021

Dr. Daniel Lucky
Abrams College SCH0104
201 Rumble Rd., Ste E
Modesto, CA 95350

Email: dlucky@abramscollege.com

Re: Notice of Investigation

Dear Dr. Lucky,

The California Massage Therapy Council ("CAMTC") recently approved education from your school for a number of applicants. After reviewing the education submitted, CAMTC has reason to believe your school may be either submitting education from a program that is not approved by BPPE and, thus, may not meet the minimum training and curriculum requirements for CAMTC Certification, or is not administering the CAMTC approved program as required. Specifically, your school may be offering a program in a language for which it does not have BPPE approval or may be offering its approved English language program to English as a Second Language ("ESL") students without following BPPE requirements to determine the English proficiency of those students. CAMTC is therefore placing your school under investigation.

In an email dated March 17, 2020, you wrote, "Voice/Powerpoint delivery has now been mastered by staff instructors and translators and we are delivering content in real-time." The use of the word "translators" raised questions for two reasons: 1) CAMTC had not observed any translators during previous site visits, and 2) you have not listed any translators on your Staff & Faculty List, organizational chart, or qualification forms submitted to CAMTC.

When asked about the translators, you wrote in a subsequent email on March 17, 2020, "Although our program is taught in English, we have both electronic and human translators to serve both the instructor and the student as a resource, as English is a second language for the vast majority of our massage students."

This statement raises serious concerns about whether the students for whom English is not their primary language are able to fully comprehend the materials being presented to them and whether or not your practices are educationally sound and meet minimum standards for training and curriculum. If the ESL students in your program are not able to fully understand the materials presented to them due to a language barrier, then they are not actually receiving the education listed on their transcripts. CAMTC therefore has a reason to question whether or not your students really have the education listed on their transcripts. Additionally, this potentially places members of the public in danger as it is not clear if these students, for example, adequately understand technical concepts such as contraindications, health and hygiene, and the business and ethics practices required to protect themselves and their clients from risks like infectious diseases and inappropriate sexual behavior.

To be clear, there is nothing inherently wrong in teaching students in English when they speak another primary language, but BPPE and CAMTC requirements must be followed to ensure that these students have sufficient English proficiency so that they may actually understand and benefit from the education received. Likewise, it is fine for a school to teach foreign language students in a foreign language, but the school must follow and comply with BPPE requirements for doing so, such as having a BPPE approved program in a foreign language.

BPPE has generally addressed foreign language concerns through its law and regulations, and your massage program is required to comply with BPPE requirements as well as CAMTC requirements. Pursuant to California Business and Professions Code section 4601, CAMTC cannot consider programs for approval that are not approved by BPPE. This requirement is also re-stated in CAMTC's Policies and Procedures for Approval of Schools section 1.D. ("Procedures," enclosed). Thus, in order for CAMTC to approve a massage program, that program must comply with BPPE requirements.

BPPE's law and regulations generally address two different foreign language scenarios: 1) the situation where students are receiving instruction in English and are proficient enough in English to receive instruction in this language, but for whom English is a second language, and 2) the situation where students are receiving education in a foreign language because they are not proficient enough to receive instruction in English. Depending on which category students fall into, the BPPE requirements for both the school and the students are different.

You have admitted in emails that your school has been instructing students for whom English is a second language and required a translator. Whether these ESL students had sufficient English proficiency to understand what was being taught in English and benefit from the education provided in English, is a serious and significant issue. However, the level of English proficiency for these students is not clear. It is also not clear if translators were being used merely as a matter of convenience and ease for students, or because without the translation of the information provided in English the students could not understand the materials.

BPPE regulation 5 California Code of Regulations section 71810(b) requires that school catalogs contain the following information:

- (4) Language proficiency information, including:
 - (A) **the level of English language proficiency required of students and the kind of documentation of proficiency, such as the Test of English as a Foreign Language (TOEFL), that will be accepted;** and
 - (B) whether English language services, including instruction such as ESL, are provided and, if so, the nature of the service and its cost;
- (5) Whether any instruction will occur in a language other than English and, if so, the level of proficiency required and the kind of documentation of proficiency, such as the United States Foreign Service Language Rating System, that will be accepted. (Emphasis added.)

Procedures section 5.D.i. of CAMTC's Procedures supports these BPPE regulations:

If the school admits foreign or ESL students, the catalog shall contain language proficiency information, including **the level of English language proficiency required of students and the kind of documentation of proficiency that will be accepted;** and whether English language services are provided and, if so, the nature of the service and its cost. The catalog shall also identify whether any instruction will occur in a language other than English and, if so, identify the other language(s) instruction will be provided in, the level of English proficiency required, and the kind of documentation of proficiency that will be accepted. (Emphasis added.)

Your school catalog addresses foreign language issues by stating the following:

English as a Second Language Policy

All classes taught at Abrams College are taught in English. Abrams College does not have an English as a second language program. Those who completed secondary school in languages other than English must provide an English transcript from a reputable source evidencing secondary school completion. If English is not your primary language, the College may, upon the discretion of the faculty and available resources, provide and make available additional technology to assist during instruction and evaluation. This includes, but is not limited to, the use of translation applications and programs, use of interpreters, assessment tools and teaching adjuncts in various languages.

Your school's policy states that all classes are taught in English and that assistance may be available for ESL students. However, your school's policy fails to state the level of English proficiency students must possess or how that proficiency is determined. Without a valid and accurate assessment of English proficiency, it is not clear whether

or not these ESL students have sufficient English proficiency so that they can receive education in English, or whether they must receive their education in another language, which your school has specifically stated it does not provide.

Your school must comply with BPPE requirements and CAMTC Procedures. Failure to do so is a violation of CAMTC's requirements for an approved school. CAMTC therefore requires your school to provide proof that the ESL students who have attended your program were properly assessed and determined to have sufficient English proficiency to benefit from the education provided in English prior to attending your classes.

CAMTC is therefore requesting that you provide the following information:

1. Provide a list of all students who attended your CAMTC approved language program since July 1, 2018, including, but not limited to, the following information for each student:
 - Full name
 - Birth date
 - Program attended
 - Date student started program
 - Date student completed program
 - Total number of hours student completed
 - Whether or not English is the student's primary language
 - Daily attendance records, including clock in and clock out times,
 - The specific name of the class or classes each day,
 - The name of the instructor or instructors for each class.
2. For those students identified in response to number 1 whose primary language is not English, provide:
 - Proof that each student has sufficient English proficiency to benefit from your program by providing a copy of a valid English language proficiency assessment. Assessments should pre-date the students' attendance in your program.
3. To the extent that you are unable to provide the documentation in number 2, then identify the manner in which you have complied with BPPE and CAMTC requirements for providing education in a language other than English including, but not limited to, BPPE approval of a foreign language program, changes to your course catalog to reflect this information, etc.
4. For future transcripts submitted to CAMTC, in addition to meeting all current requirements at the time including, but not limited to, Procedures section 5.B.a., provide:
 - Complete attendance records including, but not limited to:
 - Daily attendance records, including clock in and clock out times,
 - The specific name of the class or classes each day,

- The name of the instructor or instructors for each class.
- Whether or not English is the student's primary language.
 - If English is not the primary language, proof that the student has sufficient English proficiency to benefit from your program by providing a copy of a valid English language proficiency assessment. Assessments should pre-date the students' attendance in your program.

Once your school has completed the above items, email each document as a separate PDF file, clearly labeled and numbered according to the item it supports. Email all files at the same time (multiple emails may be sent simultaneously to accommodate large attachments) to jbsmith@camtc.org within 30 days of the date of this letter.

Your school must provide the requested information by the deadline noted above. Failure to provide the requested information by the deadline noted above may result in disciplinary action against your school, including but not limited to, revoking your school's approval.

If CAMTC finds that an applicant's education was not completed as part of a properly administered program, it may take action, including but not limited to, denying or revoking the certificates of individuals who no longer meet minimum requirements for training and curriculum. CAMTC may also take action against your school, including but not limited to, revoking your school's approval.

In accordance with State law and CAMTC's Procedures, all applicants with education from your school will be held while your school is under investigation. Within 60 days from the date of this letter CAMTC will inform you whether or not the investigation will continue. If CAMTC determines that further investigation is necessary, then the hold on your students' applications will be lifted, but they will be required to provide additional proof of adequate education by passing an education hearing. The process is that CAMTC will notify your students of this requirement by sending applicants a letter proposing to deny their applications for certification if sufficient additional proof of adequate education is not provided. Students will be notified that they can request an oral telephonic hearing or consideration of a written statement, their choice. Further instructions will be provided should CAMTC determine that further investigation is required.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Bob Smith". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Joe Bob Smith, Director
Educational Standards Division