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

12
13
14 In the Matter of the Statement of Issues
Against:

Case No. 1006630

15 **CALIFORNIA BEAUTY ACADEMY**

**FIRST AMENDED STATEMENT OF
ISSUES**

16 **School Code: 3003191**

17 Respondent.
18
19

20 **PARTIES**

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

24 2. On or about June 26, 2020, the Bureau received an Application for Significant
25 Change in Method of Instructional Delivery from California Beauty Academy, owned by New
26 American Beauty Corp., Than Mai Thi Tran (70%), and Hien Vinh Dang (30%) (Respondent).
27 On or about June 20, 2020, Thanh Mai Thi Tran certified under penalty of perjury to the
28

1 truthfulness of all statements, answers, and representations in the application. The Bureau denied
2 the application on November 9, 2020.

3 **JURISDICTION**

4 3. This First Amended Statement of Issues is brought before the Director of the
5 Department of Consumer Affairs (Director) for the Bureau, under the authority of the following
6 laws. All section references are to the Education Code (Code) unless otherwise indicated.

7 **STATUTORY PROVISIONS**

8 4. Section 94893 of the Code states:

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

12 5. Section 94932 of the Code states:

13 The bureau shall determine an institution's compliance with the requirements of
14 this chapter. The bureau shall have the power to require reports that institutions shall
15 file with the bureau in addition to the annual report, to send staff to an institution's
16 sites, and to require documents and responses from an institution to monitor
17 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.

18 **REGULATORY PROVISIONS**

19 6. Title 5, CCR, section 71600 states in part:

20 . . .

21 (b) The application shall establish that the institution, if making a significant
22 change in its method of instructional delivery, can meet the minimum operating
standards contained in Chapter 3, and shall include:

23 . . .

24 (2) A description of the proposed new method of instructional delivery, and
25 how the curriculum will be changed or adapted to meet the change in delivery method

26 . . .

27 (4) A description of how the change affects students, administration, and the
institution's financial resources . . .

28 7. Title 5, CCR, section 71655 states in part:

1 . . .

2 (b) An incomplete application filed under this Article will render it ineligible
3 for processing, or subject to denial.

4 . . .

5 (d) In addition to the grounds stated in subdivisions (a) and (b) of this section,
6 the Bureau may deny an application on the following grounds:

7 (1) failure to establish that the proposed change will meet the institutional
8 operating standards set forth in Chapter 3 of this Division

9 . . .

10 (e) An applicant denied an approval for a substantive change to its approval to
11 operate under this Article, may reapply or may request an informal hearing before the
12 Director.

13 8. Title 5, CCR, 71735 states in part:

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

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

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

FACTS

9. On June 26, 2020, the Bureau received an Application for Significant Change in
Method of Instructional Delivery, Application Number 33511, from Respondent. Along with this
application, Respondent submitted a “Change of Instructional Method: Distance Learning
Addendum.” This addendum was copied from an application submitted by a separate institution
and which had been received by the Bureau on May 20, 2020.

1 Respondent’s supporting documentation, Respondent indicated: “Real Time online instruction
2 will not exceed 35% of any individual program.” In another section, Respondent indicated: the
3 maximum online instruction will be 33% of the program.” Individual program hours identified
4 for online instruction do not match either of the proposed percentages. Further explanation and
5 consistency among submissions is needed.

6 c. Respondent failed to provide sufficient facilities and necessary equipment to support
7 the achievement of the educational objectives of all of the courses and educational programs in
8 which students are enrolled, subjecting its application to denial under Code section 94932; title 5
9 CCR, section 71600, subdivision (b)(4). and title 5 CCR, section 71735, subdivision (a).
10 Respondent explained that the hybrid distance education was instituted only as a stop-gap until
11 the end of the pandemic, and that “during the pandemic . . . the school would assist a student who
12 was without a device [sic].” Contrary to this, however, Respondent also supplied a revised
13 enrollment agreement “for students requesting distance education once schools reopen.” Thus,
14 Respondent’s proposal with regard to the delivery of online instruction, how changes will affect
15 students, and whether essential equipment is provided remain unclear.

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(Failure to Demonstrate Ability to Comply with Minimum Operating Standards –**
18 **Curriculum)**

19 13. Respondent's application is subject to denial under title 5, CCR sections 71600(b)(2),
20 71655(d)(1), and 71715(d)(2) and (d)(3) in that Respondent failed to demonstrate that its
21 proposed changes meet the minimum operational standards required for the institution’s
22 curriculum.

23 a. Respondent failed to adequately describe how the curriculum will be changed or
24 adapted to meet the change in delivery method, subjecting its application to denial under title 5,
25 CCR section 71600, subdivision (b)(2). Respondent explained that Milady MindTap is used for
26 student assessments. However, Respondent has not provided access to the Milady MindTap
27 resources, so the Bureau is unable to review examples of Respondent’s assessments.

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