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8
9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Statement of Issues
Against:

Case No. 1004095

14 **DIANOVA FOUNDATION**
15 **d.b.a. DIANOVA INSTITUTE**

STATEMENT OF ISSUES

16 **Application for Approval to Operate for an**
17 **Institution Non-Accredited**

18 Respondent.

19 **PARTIES**

20 1. Dr. Michael Marion, Jr. ("Complainant") brings this Statement of Issues solely in his
21 official capacity as the Chief of the Bureau for Private Postsecondary Education, Department of
22 Consumer Affairs.

23 2. On or about July 7, 2017, the Bureau for Private Postsecondary Education received an
24 Application for Approval to Operate for an Institution Non-Accredited. On or about November
25 14, 2018, the Bureau denied the application. On or about January 14, 2019, Respondent
26 requested an administrative hearing regarding the Bureau's denial of its application.

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1 JURISDICTION

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

6 4. Section 94885, subdivision (a) states, in part:

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

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

10 "(2) The institution maintains specific written standards for student admissions for each
11 educational program and those standards are related to the particular educational program.

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

14 ...

15 "(5) The directors, administrators, and faculty are properly qualified.

16 "(6) The institution is financially sound and capable of fulfilling its commitments to
17 students.

18 ...

19 "(9) The institution is maintained and operated in compliance with this chapter and all other
20 applicable ordinances and laws."

21 5. Section 94886 states:

22 "Except as exempted in Article 4 (commencing with Section 94874) or in compliance with
23 the transition provisions in Article 2 (commencing with Section 94802), a person shall not open,
24 conduct, or do business as a private postsecondary educational institution in this state without
25 obtaining an approval to operate under this chapter."

26 6. Section 94887 states:

27 "An approval to operate shall be granted only after an applicant has presented sufficient
28 evidence to the bureau, and the bureau has independently verified the information provided by the

1 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
2 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
3 for an approval to operate if the application does not satisfy those standards.”

4 **STATUTES AND REGULATIONS**

5 7. Section 94834 states:

6 “‘Distance education’ means transmission of instruction to students at a location separate
7 from the institution.”

8 8. Section 94841 states:

9 “‘Faculty’ means the instructional staff of an institution, whether these persons are
10 employees or independent contractors.”

11 9. Section 94885 states, in part:

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

14 . . .

15 “(6) The institution is financially sound and capable of fulfilling its commitments to
16 students.

17”

18 10. Section 94887 states:

19 “An approval to operate shall be granted only after an applicant has presented sufficient
20 evidence to the bureau, and the bureau has independently verified the information provided by the
21 applicant through site visits or other methods deemed appropriate by the bureau, that the applicant
22 has the capacity to satisfy the minimum operating standards. The bureau shall deny an application
23 for an approval to operate if the application does not satisfy those standards.”

24 11. Section 94897, subdivision (b) states:

25 “An institution shall not do any of the following:

26 . . .

27 “(b) Promise or guarantee employment, or otherwise overstate the availability of jobs upon
28 graduation.”

1 12. Section 94909, subdivision (a) states, in part:

2 “(a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
3 prospective student, either in writing or electronically, with a school catalog containing, at a
4 minimum, all of the following:

5 ...

6 “(2) Except as specified in Article 2 (commencing with Section 94802), a statement that the
7 institution is a private institution and that it is approved to operate by the bureau.

8 ...

9 “(7) Information regarding the faculty and their qualifications.

10 “(8) A detailed description of institutional policies in the following areas:

11 “(A) Admissions policies, including the institution's policies regarding the acceptance of
12 credits earned at other institutions or through challenge examinations and achievement tests,
13 admissions requirements for ability-to-benefit students, and a list describing any transfer or
14 articulation agreements between the institution and any other college or university that provides
15 for the transfer of credits earned in the program of instruction. If the institution has not entered
16 into an articulation or transfer agreement with any other college or university, the institution shall
17 disclose that fact.

18 ...

19 “(C) Probation and dismissal policies.

20 ...

21 “(11) A statement specifying that, if a student obtains a loan to pay for an educational
22 program, the student will have the responsibility to repay the full amount of the loan plus interest,
23 less the amount of any refund, and that, if the student has received federal student financial aid
24 funds, the student is entitled to a refund of the moneys not paid from federal student financial aid
25 program funds.

26 ...

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1 “(15) The following statement:

2 “NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS
3 EARNED AT OUR INSTITUTION

4 The transferability of credits you earn at (name of institution) is at the complete discretion
5 of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or
6 certificate) you earn in (name of educational program) is also at the complete discretion of the
7 institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that
8 you earn at this institution are not accepted at the institution to which you seek to transfer, you
9 may be required to repeat some or all of your coursework at that institution. For this reason you
10 should make certain that your attendance at this institution will meet your educational goals. This
11 may include contacting an institution to which you may seek to transfer after attending (name of
12 institution) to determine if your (credits or degree, diploma, or certificate) will transfer.’

13 “(16) A statement specifying whether the institution, or any of its degree programs, are
14 accredited by an accrediting agency recognized by the United States Department of Education. If
15 the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree,
16 or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or
17 doctoral degree, the statement shall disclose the known limitations of the degree program,
18 including, but not limited to, all of the following:

19 “(A) Whether a graduate of the degree program will be eligible to sit for the applicable
20 licensure exam in California and other states or become certified or registered as required for the
21 applicable profession, occupation, trade, or career field in California.

22 “(B) A degree program that is unaccredited or a degree from an unaccredited institution is
23 not recognized for some employment positions, including, but not limited to, positions with the
24 State of California.

25 “(C) That a student enrolled in an unaccredited institution is not eligible for federal
26 financial aid programs.”

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1 13. Section 94911 states, in part:

2 "An enrollment agreement shall include, at a minimum, all of the following:

3 ...

4 "(c) In underlined capital letters on the same page of the enrollment agreement in which the
5 student's signature is required, the total charges for the current period of attendance, the estimated
6 total charges for the entire educational program, and the total charges the student is obligated to
7 pay upon enrollment.

8 ...

9 "(h) The transferability disclosure that is required to be included in the school catalog, as
10 specified in paragraph (15) of subdivision (a) of Section 94909.

11"

12 14. Section 94916 states:

13 "An institution extending credit or lending money to an individual for institutional and
14 noninstitutional charges for an educational program shall cause any note, instrument, or other
15 evidence of indebtedness taken in connection with that extension of credit or loan to be
16 conspicuously marked on its face in at least 12-point type with the following notice:

17 'NOTICE'

18 "“You may assert against the holder of the promissory note you signed in order to finance
19 the cost of the educational program all of the claims and defenses that you could assert against
20 this institution, up to the amount you have already paid under the promissory note.””

21 15. California Code of Regulations, title 5, section 71140, subdivision (c), states:

22 "(c) The institution shall identify the chief executive officer, chief operating officer, and
23 chief academic officer and describe their education, experience, and qualifications to perform
24 their duties and responsibilities.”

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1 16. California Code of Regulations, title 5, section 71210, subdivision (c) states, in part:

2 “(c) In addition, the institution shall list the following for each educational program offered:

3 ...

4 “(7) Whether the educational program is designed to fit or prepare students for employment
5 in any occupation. If so, the Form Application 94886 shall identify each occupation and job title
6 to which the institution represents the educational program will lead.”

7 17. California Code of Regulations, title 5, section 71710, subdivision (c) states:

8 “In order to meet its mission and objectives; the educational program defined in section
9 94837 of the Code shall be comprised of a curriculum that includes:

10 ...

11 “(c) course or module materials that are designed or organized by duly qualified faculty.

12 For each course or module, each student shall be provided with a syllabus or course outline that
13 contains:

14 “(1) a short, descriptive title of the educational program;

15 “(2) a statement of educational objectives;

16 “(3) length of the educational program;

17 “(4) sequence and frequency of lessons or class sessions;

18 “(5) complete citations of textbooks and other required written materials;

19 “(6) sequential and detailed outline of subject matter to be addressed or a list of skills to be
20 learned and how those skills are to be measured;

21 “(7) instructional mode or methods.”

22 18. California Code of Regulations, title 5, section 71715, subdivision (d) states, in part:

23 “(d) Distance education as defined in section 94834 of the Code, does not require the
24 physical presence of students and faculty at the same location but provides for interaction
25 between students and faculty by such means as telecommunication, correspondence, electronic
26 and computer augmented educational services, postal service, and facsimile transmission. In

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1 addition to the other requirements of this chapter and the Act, an institution offering distance
2 education shall:

3 . . .

4 “(2) assess each student, prior to admission, in order to determine whether each student has
5 the skills and competencies to succeed in a distance education environment;

6 “(3) ensure that the materials and programs are current, well organized, designed by faculty
7 competent in distance education techniques and delivered using readily available, reliable
8 technology;

9”

10 19. California Code of Regulations, title 5, section 71716 states, in part:

11 . . .

12 “(c)(1) An institution shall transmit all of the lessons and other materials to the student if
13 the student: (A) has fully paid for the educational program; and (B) after having received the first
14 lesson and initial materials, requests in writing that all of the material be sent.

15 “(2) If an institution transmits the balance of the material as the student requests, the
16 institution shall remain obligated to provide the other educational services it agreed to provide,
17 such as responses to student inquiries, student and faculty interaction, and evaluation and
18 comment on lessons submitted by the student, but shall not be obligated to pay any refund after
19 all of the lessons and material are transmitted.

20 “(d) The enrollment agreement shall disclose the institution's and student's rights and duties
21 under this section.”

22 20. California Code of Regulations, title 5, section 71720 states, in part:

23 . . .

24 “(b) Instructors in an Educational Program Not Leading to a Degree.

25 “(1) An institution shall employ instructors who possess the academic, experiential and
26 professional qualifications to teach, including a minimum of three years of experience, education
27 and training in current practices of the subject area they are teaching. If an instructor does not
28 possess the required three years of experience, education and training in the subject area they are

1 teaching, the institution shall document the qualifications the instructor possesses that are
2 equivalent to the minimum qualifications.

3 “(2) Each instructor shall maintain their knowledge by completing continuing education
4 courses in his or her subject area, classroom management or other courses related to teaching.

5 “(3) The institution shall not employ or continue to employ an instructor who was
6 adjudicated in a judicial or administrative proceeding as having violated any provision of the Act
7 or this chapter, or as having committed any act that would constitute grounds for the denial of a
8 license under Section 480 of the Business and Professions Code.”

9 21. California Code of Regulations, title 5, section 71730, subdivision (f) states:

10 “(f) The institution shall employ administrative personnel who have the expertise to ensure
11 the achievement of the institution's mission and objectives and the operation of the educational
12 programs.”

13 22. California Code of Regulations, title 5, section 71770, subdivision (c) states:

14 “(c) If credit for prior experiential learning is to be granted, the policy for granting such
15 credit shall be included in the institution's catalog.

16 “(1) An institution may grant credit to a student for prior experiential learning only if:

17 “(A) The prior learning is equivalent to a college or university level of learning;

18 “(B) The learning experience demonstrates a balance between theory and practice and;

19 “(C) The credit awarded for the prior learning experience directly relates to the student's
20 degree program and is applied in satisfaction of some of the degree requirements.

21 “(2) Each college or university level learning experience for which credit is sought shall be
22 documented by the student in writing.

23 “(3) Each college or university level learning experience shall be evaluated by faculty
24 qualified in that specific subject area who shall ascertain (1) to what college or university level
25 learning the student's prior experience is equivalent and (2) how many credits toward a degree
26 may be granted for that experience.

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1 “(4) The faculty evaluating the prior learning shall prepare a written report indicating all of
2 the following:

3 “(A) The documents in the student's record on which the faculty member relied in
4 determining the nature of the student's prior experience;

5 “(B) The bases for determining that the prior experience (i) is equivalent to college or
6 university level learning and (ii) demonstrates a balance between theory and practice; and

7 “(C) The bases for determining (i) to what college or university level the experience is
8 equivalent and (ii) the proper number of credits to be awarded toward the degree for that
9 experience.

10 “(5)(A) The institution shall designate at least one administrator to be responsible for the
11 review of faculty determinations regarding the award of credit for prior experiential learning.

12 “(B) The administrator shall document the institution's periodic review of faculty
13 evaluations to assure that the faculty written evaluations and awards of credit comply with this
14 section and the institution's policies and are consistent.

15 “(6) The amount of credit awarded for prior experiential learning shall not be related to the
16 amount charged the student for the assessment process.

17 “(7)(A) Of the first 60 semester credits awarded a student in an undergraduate program, no
18 more than 15 semester credits may be awarded for prior experiential learning.

19 “(B) Of the second 60 semester units (i.e., credits 61 to 120) awarded a student in an
20 undergraduate program, no more than 15 semester credits may be awarded for prior experiential
21 learning.

22 “(C) Of the first 30 semester credits awarded a student in a graduate program, no more than
23 6 semester credits may be awarded for prior experiential learning.

24 “(D) Of the second 30 semester credits (i.e., credits 31 to 60) awarded a student in a
25 graduate program, no more than 3 semester credits may be awarded for prior experiential
26 learning.

27 “(E) No credit for experiential learning may be awarded after a student has obtained 60
28 semester credits in a graduate program.”

1 23. California Code of Regulations, title 5, section 71800, subdivision (e) states, in part:
2 “(e) Itemization of all institutional charges and fees including, as applicable:
3 ...
4 “(9) assessment fees for transfer of credits;
5 “(10) fees to transfer credits;
6”

7 24. California Code of Regulations, title 5, section 71810, subdivision (b) states, in part:
8 “(b) The catalog shall contain the information prescribed by Section 94909 of the Code and
9 all of the following:
10 ...
11 “(7) The institution's policies and procedures for the award of credit for prior experiential
12 learning, including assessment policies and procedures, provisions for appeal, and all charges that
13 a student may be required to pay;
14 ...
15 “(11) If the institution offers distance education, the approximate number of days that will
16 elapse between the institution's receipt of student lessons, projects, or dissertations and the
17 institution's mailing of its response or evaluation.
18 “(12) A description of all student services;
19”

20 25. California Code of Regulations, title 5, section 74112, subdivision (d) states, in part:
21 “(d) In addition to the definitions contained in section 94928 of the Code:
22 ...
23 “(3) ‘Gainfully Employed’ means:
24 “(A)(i) The graduate is employed in a job classification under the United States Department
25 of Labor's Standard Occupational Classification codes, using the Detailed Occupation (six-digit)
26 level, for which the institution has identified in its catalog and in its employment positions list
27 required by section 94910(f)(2) of the Code that the program prepares its graduates; and
28 ////

1 “(ii) The graduate is employed in a single position or concurrent aggregated positions
2 totaling at least 30 hours per week for 5 weeks (35 calendar days), or totaling at least 20 hours per
3 week for 5 weeks (35 calendar days) with a statement signed by the graduate stating that he or she
4 chose to seek part-time employment rather than fulltime employment after graduation; or

5 “(B) The graduate is employed by the same employer that employed the graduate before
6 enrollment, and any of the following conditions are met:

7 “(i) the graduate is employed in an occupation with a different Detailed Occupation (six-
8 digit) level Standard Occupational Classification code than applies to the position in which the
9 graduate was employed before enrollment; or

10 “(ii) the employer or the graduate provides a statement to the effect that the employment
11 after graduation was the result of a promotion with increased pay, due at least in part to
12 graduation from the program; or

13 “(iii) the employer or the graduate provides a statement to the effect that the degree or the
14 completed program was required as a condition of continued employment; or

15 “(C) The graduate is self-employed or working freelance as reasonably evidenced by, but
16 not limited to, a business license, fictitious business name statement, advertising (other than
17 business cards), website, or business receipts or other evidence of income from business; or an
18 attestation signed by the graduate of self-employment or freelance work and dated after
19 graduation.”

20 26. California Code of Regulations, title 5, section 74115, states, in part:

21 ...

22 “(b) A set of financial statements shall contain, at a minimum, a balance sheet, an income
23 statement, and a cash flow statement, and the preparation of financial statements, shall comply
24 with all of the following:

25 “(1) Audited and reviewed financial statements shall be conducted and prepared in
26 accordance with the generally accepted accounting principles established by the American
27 Institute of Certified Public Accountants by an independent certified public accountant who is not
28 an employee, officer, or corporate director or member of the governing board of the institution.

1 “(2) Financial statements prepared on an annual basis as required by section 74110(b) shall
2 be prepared in accordance with the generally accepted accounting principles established by the
3 American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual
4 financial statements as required under generally accepted accounting principles for nonprofit
5 organizations.

6 “(3) The financial statements shall establish that the institution meets the requirements for
7 financial resources required by Section 71745.

8 “(4) If an audit performed to determine compliance with any federal or state student
9 financial aid program reveals any failure to comply with the requirements of the program and the
10 noncompliance creates any liability or potential liability for the institution, the financial
11 statements shall reflect the liability or potential liability.

12 “(5) Any audits shall demonstrate that the accountant obtained an understanding of the
13 institution's internal financial control structure, assessed any risks, and has reported any material
14 deficiencies in the internal controls.

15 ...

16 “(d) ‘Current’ with respect to financial statements means completed no sooner than 120
17 days prior to the time it is submitted to the Bureau, and covering no less than the most recent
18 complete fiscal year. If more than 8 months will have elapsed between the close of the most
19 recent complete fiscal year and the time it is submitted, the fiscal statements shall also cover no
20 less than five months of that current fiscal year.”

21 27. California Code of Regulations, title 5, section 76215 states:

22 “(a) A qualifying institution shall include the following statement on both its enrollment
23 agreement and school catalog:

24 ““The State of California established the Student Tuition Recovery Fund (STRF) to relieve
25 or mitigate economic loss suffered by a student in an educational program at a qualifying
26 institution, who is or was a California resident while enrolled, or was enrolled in a residency
27 program, if the student enrolled in the institution, prepaid tuition, and suffered an economic loss.
28 Unless relieved of the obligation to do so, you must pay the state-imposed assessment for the

1 STRF, or it must be paid on your behalf, if you are a student in an educational program, who is a
2 California resident, or are enrolled in a residency program, and prepay all or part of your tuition.

3 'You are not eligible for protection from the STRF and you are not required to pay the
4 STRF assessment, if you are not a California resident, or are not enrolled in a residency program.'

5 '(b) In addition to the statement required under subdivision (a) of this section, a qualifying
6 institution shall include the following statement in its school catalog:

7 'It is important that you keep copies of your enrollment agreement, financial aid
8 documents, receipts, or any other information that documents the amount paid to the school.
9 Questions regarding the STRF may be directed to the Bureau for Private Postsecondary
10 Education, 2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833, (916) 431-6959 or (888)
11 370-7589.

12 'To be eligible for STRF, you must be a California resident or enrolled in a residency
13 program, prepaid tuition, paid or deemed to have paid the STRF assessment, and suffered an
14 economic loss as a result of any of the following:

15 '1. The institution, a location of the institution, or an educational program offered by the
16 institution was closed or discontinued, and you did not choose to participate in a teach-out plan
17 approved by the Bureau or did not complete a chosen teach-out plan approved by the Bureau.

18 '2. You were enrolled at an institution or a location of the institution within the 120 day
19 period before the closure of the institution or location of the institution, or were enrolled in an
20 educational program within the 120 day period before the program was discontinued.

21 '3. You were enrolled at an institution or a location of the institution more than 120 days
22 before the closure of the institution or location of the institution, in an educational program
23 offered by the institution as to which the Bureau determined there was a significant decline in the
24 quality or value of the program more than 120 days before closure.

25 '4. The institution has been ordered to pay a refund by the Bureau but has failed to do so.

26 '5. The institution has failed to pay or reimburse loan proceeds under a federal student loan
27 program as required by law, or has failed to pay or reimburse proceeds received by the institution
28 in excess of tuition and other costs.

1 '6. You have been awarded restitution, a refund, or other monetary award by an arbitrator
2 or court, based on a violation of this chapter by an institution or representative of an institution,
3 but have been unable to collect the award from the institution.

4 '7. You sought legal counsel that resulted in the cancellation of one or more of your student
5 loans and have an invoice for services rendered and evidence of the cancellation of the student
6 loan or loans.

7 'To qualify for STRF reimbursement, the application must be received within four (4) years
8 from the date of the action or event that made the student eligible for recovery from STRF.

9 'A student whose loan is revived by a loan holder or debt collector after a period of
10 noncollection may, at any time, file a written application for recovery from STRF for the debt that
11 would have otherwise been eligible for recovery. If it has been more than four (4) years since the
12 action or event that made the student eligible, the student must have filed a written application for
13 recovery within the original four (4) year period, unless the period has been extended by another
14 act of law.

15 'However, no claim can be paid to any student without a social security number or a
16 taxpayer identification number.'

17 **FIRST CAUSE FOR DENIAL OF APPLICATION**

18 (Organization and Management)

19 (Educ. Code § 94887; and

20 Cal. Code Regs., title 5, §§ 71140, subd. (c) and 71730, subd. (f))

21 28. Respondent's application is subject to denial because Respondent failed to
22 demonstrate its Chief Executive Officer and Chief Operating Officer, D.F., has the expertise to
23 ensure the achievement of the institution's mission and objectives and the operation of the
24 educational programs. (Educ. Code § 94887; and Cal. Code Regs., title 5, §§ 71140, subd. (c)
25 and 71730, subd. (f)).

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1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 (Enrollment Agreement)

3 (Educ. Code §§ 94887; 94911, subs. (c) and (h); and 94916; and
4 Cal. Code Regs., title 5, §§ 71716, subs. (c)(1) and (c)(2); 71800, subs. (e)(9) and (e)(10); and
5 76215, subd. (a))

6 29. Respondent's application is subject to denial because Respondent failed to offer
7 compliant enrollment agreements. (Educ. Code §§ 94887; 94911, subs. (c) and (h); and 94916;
8 and Cal. Code Regs., title 5, §§ 71716, subs. (c)(1) and (c)(2); 71800, subs. (e)(9) and (e)(10);
9 and 76215, subd. (a)). In particular:

10 a. Respondent's proposed enrollment agreement for its Health and Intimacy
11 Studies Certificate Program and Respondent's proposed catalog contain conflicting information
12 related to the assessment fees for transfer of credits. (Cal. Code Regs., title 5, § 71800, subd.
13 (e)(9)).

14 b. Respondent's proposed enrollment agreement for its Clinical Health and
15 Intimacy Studies Certificate Program and Respondent's proposed catalog contain conflicting
16 information related to the assessment fees for transfer of credits. (Cal. Code Regs., title 5, §
17 71800, subd. (e)(9)).

18 c. Respondent's proposed enrollment agreement for its Health and Intimacy
19 Studies Certificate Program and Respondent's proposed catalog contain conflicting information
20 related to fees to transfer credits. (Cal. Code Regs., title 5, § 71800, subd. (e)(10)).

21 d. Respondent's proposed enrollment agreement for its Clinical Health and
22 Intimacy Studies Certificate Program and Respondent's proposed catalog contain conflicting
23 information related to fees to transfer credits. (Cal. Code Regs., title 5, § 71800, subd. (e)(10)).

24 e. Respondent's proposed enrollment agreement for its Health and Intimacy
25 Studies Certificate Program fails to include, in underlined capital letters on the same page of the
26 enrollment agreement in which the student's signature is required, "the estimated total charges for
27 the entire educational program" and "the total charges the student is obligated to pay upon
28 enrollment." (Educ. Code § 94911, subd. (c)).

f. Respondent's proposed enrollment agreement for its Clinical Health and
Intimacy Studies Certificate Program fails to include, in underlined capital letters on the same

1 page of the enrollment agreement in which the student's signature is required, "the estimated total
2 charges for the entire educational program" and "the total charges the student is obligated to pay
3 upon enrollment." (Educ. Code § 94911, subd. (c)).

4 g. Respondent's proposed enrollment agreement for its Health and Intimacy
5 Studies Certificate Program fails to include requisite, verbatim language regarding the Student
6 Tuition Recovery Fund ("STRF"). (Cal. Code Regs., title 5, § 76215, subd. (a)).

7 h. Respondent's proposed enrollment agreement for its Clinical Health and
8 Intimacy Studies Certificate Program fails to include requisite, verbatim language regarding
9 STRF. (Cal. Code Regs., title 5, § 76215, subd. (a)).

10 i. Respondent's proposed enrollment agreement for its Health and Intimacy
11 Studies Certificate Program fails to include requisite, verbatim language regarding the "Notice
12 Concerning Transferability of Credits and Credentials Earned at our Institution." (Educ. Code §
13 94911, subd. (h)).

14 j. Respondent's proposed enrollment agreement for its Clinical Health and
15 Intimacy Studies Certificate Program fails to include requisite, verbatim language regarding the
16 "Notice Concerning Transferability of Credits and Credentials Earned at our Institution." (Educ.
17 Code § 94911, subd. (h)).

18 k. Respondent's proposed enrollment agreements for its Health and Intimacy
19 Studies Certificate Program and Clinical Health and Intimacy Studies Certificate Program fail to
20 contain the header "NOTICE" prior to the language required by Education Code section 94916.

21 l. Respondent's proposed enrollment agreement for its Clinical Health and
22 Intimacy Studies Certificate Program includes information on distance education, but does not
23 include disclosures to students regarding transmittal of lessons and other materials and the
24 institution's obligation to provide other educational services. (Cal. Code Regs., title 5, §§ 71716,
25 subs. (c)(1) and (c)(2)).

26 m. Respondent's proposed enrollment agreement for its Health and Intimacy
27 Studies Certificate Program includes information on distance education, but does not include
28 disclosures to students regarding transmittal of lessons and other materials and the institution's

1 obligation to provide other educational services. (Cal. Code Regs., title 5, §§ 71716, subs. (c)(1)
2 and (c)(2)).

3
4 **THIRD CAUSE FOR DENIAL OF APPLICATION**

5 (Instruction – Distance Education)
6 (Educ. Code §§ 94834 and 94887; and
7 Cal. Code Regs., title 5, § 71715, subs. (d)(2) and (d)(3))

8 30. Respondent's application is subject to denial because Respondent failed to
9 demonstrate it is able to offer a compliant distance education program. (Educ. Code §§ 94834
10 and 94887; and Cal. Code Regs., title 5, § 71715; subs. (d)(2) and (d)(3)). In particular:

11 a. Respondent's application fails to demonstrate it is able to assess each student,
12 prior to admission, in order to determine whether each student has the skills and competencies to
13 succeed in a distance education environment. (Cal. Code Regs., title 5, § 71715, subd. (d)(2)).

14 d. Respondent's application fails to demonstrate that its distance education
15 materials and programs are designed by faculty competent in distance education techniques and
16 delivered using readily available, reliable technology. (Cal. Code Regs., title 5, § 71715, subd.
17 (d)(3)).

18 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

19 (Description of Educational Programs)
20 (Educ. Code §§ 94887 and 94897, subd. (b); and
21 Cal. Code Regs., title 5, §§ 71210, subd. (c)(7) and 71710, subd. (c))

22 31. Respondent's application is subject to denial because Respondent failed to offer
23 sufficient information regarding its proposed courses. (Educ. Code §§ 94887 and 94897, subd.
24 (b); and Cal. Code Regs., title 5, §§ 71210, subd. (c)(7) and 71710, subd. (c)). In particular:

25 a. Respondent fails to offer syllabi or course outlines for the following courses:
26 SYL110, SYCS210, SYD110, SYM110, SYPSC110, SYB110, SYLE110, SYETH110,
27 SYPHL110, SYTHE110, SYART110, SYSE110, SYGS110, SYHT110, SYHS110, SYDM110,
28 SHST110, SHSE110, SHSR110, CSIAD211, CSCS211, CSADM210, CSSE210, CSSP210,
CSET210, CSCT210, CSAR210, CSGP210, and CSDM21. (Cal. Code Regs., title 5, § 71710,
subd. (c)).

1 b. Respondent provided the following statement regarding its Clinical Health and
2 Intimacy Specialist Program: “the designation will allow the recipient to work in conjunction
3 with and/or under the supervision of any related profession in the Health, Mental Health, Social
4 Services, and other related professions.” However, Respondent failed to offer any information
5 demonstrating that this statement is correct. (Educ. Code § 94897, subd. (b) and Cal. Code Regs.,
6 title 5, § 71210, subd. (c)(7)).

7
8 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

 (Financial Statements)

 (Educ. Code § 94887; and

9 Cal. Code of Regs., title 5, § 74115, subds. (b) and (d))

10 32. Respondent’s application is subject to denial because Respondent failed to provide
11 compliant financial statements. (Educ. Code §§ 94885, subd. (a)(6) and 94887; and Cal. Code of
12 Regs., title 5, § 74115, subds. (b) and (d)). In particular, the financial statements offered by
13 Respondent do not include a balance sheet, income statement, and cash flow statement.

14
15 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

 (School Catalog)

16 (Educ. Code §§ 94841, 94887, and 94909, subds. (a)(2), (a)(7), (a)(8)(A),

17 (a)(8)(C), (a)(11), (a)(15), and (a)(16); and

18 Cal. Code Regs., title 5, §§ 71720, subd. (b); 71770, subd. (c); 71810, subds. (b)(7), (b)(11),
19 (b)(12); 74112, subd. (d)(3); and 76215, subds. (a) and (b))

20 33. Respondent’s application is subject to denial because Respondent failed to offer a
21 compliant school catalog. (Educ. Code §§ 94841, 94887, and 94909, subds. (a)(2), (a)(7),
22 (a)(8)(A), (a)(8)(C), (a)(11), (a)(15), and (a)(16); and Cal. Code Regs., title 5, §§ 71720, subd.
23 (b); 71770, subd. (c); 71810, subds. (b)(7), (b)(11), (b)(12); 74112, subd. (d)(3); and 76215,
24 subds. (a) and (b)). In particular:

25 a. Respondent’s proposed catalog fails to contain a consistent statement that the
26 institution is a private institution and that it is approved to operate by the Bureau. (Educ. Code §
27 94909, subd. (a)(2)).

28 b. Respondent’s proposed catalog’s “Notice Concerning Transferability of Credits
and Credentials Earned at Our Institution” fails to contain the language required by Education
Code section 94909, subdivision (a)(15).

1 c. Respondent's proposed catalog refers to Ability-to-Benefit exams, with regard
2 to Respondent's admission policies, but fails to specify which Ability-to-Benefit exams apply or
3 Respondent will otherwise accept. (Educ. Code § 94909, subd. (a)(8)(A)).

4 d. Respondent's proposed catalog fails to include its policies or procedures for the
5 award of credit for prior experiential learning. (Cal. Code Regs., title 5, §§ 71770, subd. (c) and
6 71810, subd. (b)(7)).

7 e. Respondent's proposed catalog fails to contain a statement specifying whether
8 the institution, or any of its degree programs, are accredited by an accrediting agency recognized
9 by the United States Department of Education. (Educ. Code § 94909, subd. (a)(16)).

10 f. Respondent's proposed catalog fails to include the language regarding the
11 Student Tuition Recovery Fund ("STRF") required by California Code of Regulations, title 5,
12 section 76215, subdivisions (a) and (b).

13 g. Information in Respondent's proposed catalog regarding its faculty conflicts
14 with other information Respondent provided the Bureau as part of its application. (Educ. Code §§
15 94841 and 94909, subd. (a)(7); Cal. Code Regs., title 5, § 71720, subd. (b)).

16 h. Respondent's proposed catalog fails to contain a statement specifying that, if a
17 student obtains a loan to pay for an educational program, the student will have the responsibility
18 to repay the full amount of the loan plus interest, less the amount of any refund, and that, if the
19 student has received federal student financial aid funds, the student is entitled to a refund of the
20 moneys not paid from federal student financial aid program funds. (Educ. Code § 94909, subd.
21 (a)(11)).

22 i. Respondent's proposed catalog fails to include the institution's probation and
23 dismissal policies. (Educ. Code § 94909, subd. (a)(8)(C)).

24 j. Respondent's proposed catalog fails to include a description of all student
25 services. (Cal. Code Regs., title 5, § 71810, subd. (b)(12)).

26 k. Respondent's proposed catalog fails to include the standard occupational
27 classification ("SOC") codes related to the employment positions identified in Respondent's
28 application. (Cal. Code Regs., title 5, § 74112, subd. (d)(3)).

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1. Respondent's proposed catalog includes information regarding distance education, but fails to provide details regarding the approximate number of days that will elapse between the institution's receipt of student lessons, projects, or dissertations and the institution's mailing of its response or evaluation. (Cal. Code Regs., title 5, § 71810, subd. (b)(11)).

PRAYER

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

1. Denying Respondent's Application for an Approval to Operate an Institution Non-Accredited; and
2. Taking such other and further action as deemed necessary and proper.

DATED:

4/23/19



DR. MICHAEL MARION, JR.
Chief
Bureau for Private Postsecondary Education
Department of Consumer Affairs
State of California
Complainant

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