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7  
8 **BEFORE THE**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 999607

13 **UNIQUE DENTAL LAB COLLEGE; ZHI**  
14 **YUN LUO, owner**

**STATEMENT OF ISSUES**

14 **Application for Renewal of Approval to**  
15 **Operate and Offer Educational Programs**  
16 **for Non-Accredited Institutions**

16 **Application Number 24562**  
17 **School Code 97715418**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Complainant Joanne Wenzel 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 January 3, 2006, the Bureau for Private Postsecondary and Vocational Education<sup>1</sup>  
25 issued an Approval to Operate to Respondent Unique Dental Lab College and its owner Zhi Yun

26 <sup>1</sup> The former Bureau for Private Postsecondary Education and Vocational Education  
27 sunsetted on July 2, 2007. On October 11, 2009, the Bureau for Private Postsecondary Education  
28 Act of 2009 (AB 48) was signed into law. The Act, which became operative on January 1, 2010,  
established the Bureau for Private Postsecondary Education.

1 Luo. Respondent was assigned School Code 97715418. While Respondent's renewal  
2 application, which is the subject of this Statement of Issues, was pending, Respondent's Approval of  
3 to Operate expired on January 2, 2012.

4 3. On March 12, 2012, the Bureau received a Respondent's Application for Renewal of  
5 Approval to Operate and Offer Educational Programs for Non-Accredited Institutions. On  
6 January 28, 2012, Zhi Yun Luo certified the application's truthfulness under penalty of perjury.

7 4. The Bureau denied the Application on March 19, 2014.

8 5. On April 10, 2014, the Bureau received Respondent's response to the denial letter,  
9 including additional documentation for review.

10 6. On November 24, 2014, the Bureau upheld the causes for denial.

11 7. Respondent timely appealed the Bureau's denial.

## 12 JURISDICTION

13 8. This Statement of Issues is brought before the Director of the Department of  
14 Consumer Affairs for the Bureau under the authority of the following laws. All section  
15 references are to the Education Code unless otherwise indicated.

16 9. Section 94875 authorizes the Bureau to regulate private postsecondary educational  
17 institutions under the California Private Postsecondary Education Act of 2009, Education Code  
18 sections 94800 through 94950.

## 19 STATUTES AND REGULATIONS

### 20 *Standards for Evaluating Applications to Operate and Their Renewal*

21 10. In pertinent part, Section 94885<sup>2</sup> requires the Bureau to adopt certain minimum  
22 operating standards for institutions:

23 "The bureau shall, by January 1, 2011, adopt by regulation minimum  
24 operating standards for an institution that shall reasonably ensure that all of the  
following occur:

25 ...

(c) The facilities, instructional equipment, and materials are sufficient to

26 \_\_\_\_\_  
27 <sup>2</sup> The statutes and regulations quoted are those in effect from January 1, 2010 to  
28 December 31, 2014, the period when Respondent's application was submitted, considered and  
denied.

enable students to achieve the educational program's goals.

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...  
(f) The institution is financially sound and capable of fulfilling its commitments to students.

...  
(h) Adequate records and standard transcripts are maintained and are available to students.

(i) The institution is maintained and operated in compliance with this chapter and all other applicable ordinances and laws.”

11. Section 94887 dictates when the Bureau may grant an application to operate:

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

12. Section 94891 requires the Bureau to adopt regulations for evaluating renewals of approvals to operate and states in subdivision (b) that “[t]o be granted a renewal of an approval to operate, the institution shall demonstrate its continued capacity to meet the minimum operating standards.”

13. In pertinent part, California Code of Regulations, title 5, section 71475 implements section 94891 by providing requirements for renewal applications:

“(b) An institution seeking to renew its Approval to Operate pursuant to section 94891 of the Code shall, prior to its expiration, complete and submit to the Bureau the "Application for Renewal of Approval to Operate and Offer Educations Programs for Non-Accredited Institutions," Form Application 94891 (rev. 2/10)

...  
(e) The institution shall submit at the time it applies for renewal current financial statements that meet the requirements of section 74115 as follows: (1) for an institution with annual gross revenues of \$500,000 and over, statements shall be audited; (2) for an institution with annual gross revenues less than \$500,000, statements shall be reviewed.

...  
(o) The institution shall include, with its application, exemplars of all student enrollment agreements and instruments of indebtedness.

...  
(t) In addition, the institution shall list in the application, the following for each educational program offered unless there have been no substantive changes since the last submission. If there have been no substantive changes made the institution may so state and is not required to provide documentation.

1 (7) Whether the educational program is designed to fit or prepare students  
2 for employment in any occupation. If so, the application shall identify each  
3 occupation and job title to which the institution represents the educational program  
4 will lead.

...

4 (u) For each educational program that the institution offers or proposes to  
5 offer, the application shall contain a statement that the educational program meets the  
6 requirements of section 71710, as well as the following unless there have been no  
7 substantive changes since the last submission. If there have been no substantive  
8 changes made the institution may so state and is not required to provide  
9 documentation:

...

8 (1) A description of the educational program.

...

9 (5) A description of the learning, skills, and other competencies to be  
10 acquired by students who complete the educational program.

11 (6) If licensure is a goal of an educational program, a copy of the  
12 approval from the appropriate licensing agency. A copy of the intent to approve  
13 conditioned solely upon institutional approval from the Bureau will also meet this  
14 requirement.

...

14 (v) If the institution offers an educational program, or a portion of it, in a  
15 language other than English, the application shall contain a description of all of the  
16 following for each educational program or portion thereof unless there have been no  
17 substantive changes since the last submission. If there have been no substantive  
18 changes made the institution may so state and is not required to provide  
19 documentation.

17 (1) The language in which each educational program will be offered.

18 (2) A statement that the institution has contracted with sufficient duly  
19 qualified faculty who will teach each language group of students.

19 (3) The language of the textbooks and other written materials to be used  
20 by each language group of students.

20 (w)(1) The application shall contain a statement that the institution has  
21 and can maintain the financial resources required pursuant to section 71745.

22 (2) The institution shall submit current, audited financial statements at  
23 the time it applies for approval to operate. Each set of financial statements shall  
24 comply with Section 74115 of this chapter.

23 (z) The application shall include a description of library holdings,  
24 services, and other learning resources, including policies and procedures for  
25 supplying them to students who do not receive classroom instruction. The description  
26 need not consist of a list of each holding. The description shall include an explanation  
27 of how the library and other learning resources are sufficient to support the  
28 instructional needs of students and, if no facilities exist at the institution, how and  
when students may obtain access to a library and other learning resources as required  
by the curriculum unless there have been no substantive changes since the last  
submission. If there have been no substantive changes made the institution may so  
state and is not required to provide documentation.

...

1 (bb) The application shall include a copy of the institution's catalog, in  
2 published or proposed-to-be-published form. The catalog shall meet the requirements  
3 of the Act and of section 71810.

4 (kk) An incomplete application filed under this section will render the  
5 institution ineligible for renewal."

6 Regulations Governing Institutions' Financial Statements

7 14. California Code of Regulations Title 5 section 74115 details requirements for  
8 institutions' financial statements:

9 (a) This section applies to every set of financial statements required to be  
10 prepared or filed by the Act or by this chapter.

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

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

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

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

26 (4) If an audit performed to determine compliance with any federal or  
27 state student financial aid program reveals any failure to comply with the  
28 requirements of the program and the noncompliance creates any liability or potential  
29 liability for the institution, the financial statements shall reflect the liability or  
30 potential liability.

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

34 (d) "Current" with respect to financial statements means completed no  
35 sooner than 120 days prior to the time it is submitted to the Bureau, and covering no  
36 less than the most recent complete fiscal year. If more than 8 months will have  
37 elapsed between the close of the most recent complete fiscal year and the time it is  
38 submitted, the fiscal statements shall also cover no less than five months of that  
39 current fiscal year.

40 Statutes and Regulations Governing School Performance Fact Sheets

41 15. In relevant part, Section 94902 requires the use of enrollment agreements when  
42 enrolling students and requires that students be provided with School Performance Fact Sheets  
43 prior to enrollment:  
44

1                   ~~“(a) A student shall enroll solely by means of executing an enrollment~~  
2                   ~~agreement. The enrollment agreement shall be signed by the student and by an~~  
3                   ~~authorized employee of the institution.~~

4                   (b) An enrollment agreement is not enforceable unless all of the following  
5                   requirements are met:

6                   (1) The student has received the institution's catalog and School  
7                   Performance Fact Sheet prior to signing the enrollment agreement.

8                   (2) At the time of the execution of the enrollment agreement, the  
9                   institution held a valid approval to operate.

10                  (3) Prior to the execution of the enrollment agreement, the student and the  
11                  institution have signed and dated the information required to be disclosed in the  
12                  Student Performance Fact Sheet pursuant to subdivisions (a) to (d), inclusive, of  
13                  Section 94910. Each of these items in the Student Performance Fact Sheet shall  
14                  include a line for the student to initial and shall be initialed and dated by the student.

15                  (c) A student shall receive a copy of the signed enrollment agreement, in  
16                  writing or electronically, regardless of whether total charges are paid by the student.”

17                  16. Section 94910 sets minimum requirements for School Performance Fact Sheets:

18                  “Prior to enrollment, an institution shall provide a prospective student  
19                  with a School Performance Fact Sheet containing, at a minimum, the following  
20                  information, as it relates to the educational program:

21                  (a) Completion rates, as calculated pursuant to Article 16 (commencing  
22                  with Section 94928).

23                  (b) Placement rates for each educational program, as calculated pursuant  
24                  to Article 16 (commencing with Section 94928), if the educational program is  
25                  designed to lead to, or the institution makes any express or implied claim related to  
26                  preparing students for, a recognized career, occupation, vocation, job, or job title.

27                  (c) License examination passage rates for programs leading to  
28                  employment for which passage of a state licensing examination is required, as  
29                  calculated pursuant to Article 16 (commencing with Section 94928).

30                  (d) Salary or wage information, as calculated pursuant to Article 16  
31                  (commencing with Section 94928).

32                  ...

33                  (f) All of the following:

34                         (1) A description of the manner in which the figures described in  
35                         subdivisions (a) to (d), inclusive, are calculated or a statement informing the  
36                         reader of where he or she may obtain a description of the manner in which  
37                         the figures described in subdivisions (a) to (d), inclusive, are calculated.

38                         (2) A statement informing the reader of where he or she may  
39                         obtain from the institution a list of the employment positions determined to  
40                         be within the field for which a student received education and training for  
41                         the calculation of job placement rates as required by subdivision (b).

42                         (3) A statement informing the reader of where he or she may  
43                         obtain from the institution a list of the objective sources of information used  
44                         to substantiate the salary disclosure as required by subdivision (d)...”

45                  17. In pertinent part, Section 94929.5 mandates reporting of student performance data:

1 “(a) An institution shall annually report to the bureau, as part of the  
annual report, and shall publish in its School Performance Fact Sheet, all of the  
following:

2 (1) The job placement rate, calculated by dividing the number of  
3 graduates employed in the field by the number of graduates available for employment  
4 for each program that is either (1) designed, or advertised, to lead to a particular  
career, or (2) advertised or promoted with any claim regarding job placement.

5 (2) The license examination passage rates for the immediately preceding  
6 two years for programs leading to employment for which passage of a state licensing  
7 examination is required, calculated by dividing the number of graduates who pass the  
8 examination by the number of graduates who take the licensing examination the first  
9 time that the examination is available after completion of the educational program.  
10 The institution shall use state agency licensing data to calculate license examination  
11 passage rates. If those data are unavailable, the institution shall calculate the license  
12 examination passage rate in a manner consistent with regulations adopted by the  
13 bureau.

14 (3) Salary and wage information, consisting of the total number of  
15 graduates employed in the field and the annual wages or salaries of those graduates  
16 stated in increments of five thousand dollars (\$5,000).

17 ...

18 (b) Nothing in this section shall limit the bureau's authority to collect  
19 information from an institution to comply with this section and ensure, by regulation  
20 and other lawful means, that the information required by this section, and the manner  
21 in which it is collected and reported, is all of the following:

22 (1) Useful to students.

23 (2) Useful to policymakers.

24 (3) Based upon the most credible and verifiable data available.

25 (4) Does not impose undue compliance burdens on an institution.”

26 18. In pertinent part, California Code of Regulations Title 5 section 74112 details how the  
27 data in School Performance Facts sheets must be calculated and presented:

28 “(a) Format. The format for the Performance Fact Sheet shall be in at  
least 12 pt. type, in an easily readable font, with 1.15 line spacing. The Performance  
Fact Sheet shall contain all and only the information required or specifically  
permitted by section 94910 of the Code or this chapter.

(b) In addition to the definitions contained in section 94928 of the Code:

(1) “Number of Students Who Began Program” means the number of  
students who began a program who are scheduled to complete the program within  
100% of the published program length within the reporting calendar year, and  
includes all the students who remained enrolled after their cancellation period.

(2) “Number of Graduates” means the number of students who completed  
the program within 100% of the published program length within the reporting  
calendar year.

(3) “Graduates Employed in the Field” means those graduates who meet  
the definition of section 94928(e) of the Code, who have reported their employment  
to the institution.

(c) Reporting periods:

(1) An Annual Report shall include data for all educational programs as defined in section 94837 of the Code for the previous one calendar year.

(2) A Performance Fact Sheet shall be current and available not later than August 1st, and shall report data for the previous two calendar years based upon the "number of students who began program" or the "number of graduates," as defined in subdivision (b), for each reported calendar year.

(d) Completion Rates. Reporting of completion rates for an institution's Annual Report and Performance Fact Sheet shall include, for each educational program, the number of students who began program as defined in subdivision (b), the number of students available for graduation, number of graduates, and completion rate(s). An optional column may be added to include completion rate data for students completing within 101-150% of the published program length. For an institution reporting completion data pursuant to section 94929(b) of the Code, completion data shall be separately reported for each program. The Performance Fact Sheet shall disclose, if true, that the completion data is being reported for students completing within 150% of the published program length, and that data is not being separately reported for students completing the program within 100% of the published program length.

Completion rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Completion Rates (includes data for the two calendar years prior to reporting)

| <b>Name of Educational Program (Program Length)</b> |   |  |                              |                                    |
|---|---|--|------------------------------|------------------------------------|
| <b>Calendar Year</b>                                | <b>Number of Students Who Began Program<sup>1</sup></b> | <b>Students Available for Graduation</b> | <b>Graduates<sup>3</sup></b> | <b>Completion Rate<sup>4</sup></b> |
| 20XX  | 100   | 98                                       | 70                           | 71%                                |
| 20XY  | 80  | 80                                       | 55                           | 69%                                |

Students Completing After Published Program Length - 150% Completion Rate

| <b>Name of Educational Program (Program Length)</b> |   |  |                                   |   |
|---|---|--|-----------------------------------|---|
| <b>Calendar Year</b>                                | <b>Number of Students Who Began Program<sup>1</sup></b> | <b>Students Available for Graduation</b> | <b>150% Graduates<sup>5</sup></b> | <b>150% Completion Rate<sup>6</sup></b> |
| 20XX  | 100   | 98                                       | 25                                | 26%                                     |
| 20XY  | 80  | 80                                       | 23                                | 29%                                     |



1                   <sup>1</sup> “Number of Students Who Began Program” is the number of students  
2 who began the program who are scheduled to complete the program within the  
reporting calendar year.

3                   <sup>2</sup> “Students available for graduation” is the number of students who began  
4 program minus the number of “Students unavailable for graduation,” which means  
those students who have died, been incarcerated, or called to active military duty.

5                   <sup>3</sup> “Graduates” is the number of students who completed the program  
within 100% of the published program length.

6                   <sup>4</sup> “Completion Rate” is the number of Graduates divided by the Number  
of Students Available for Graduation.

7                   <sup>5</sup> “150% Graduates” is the number of students who completed the  
8 program within 101-150% of the published program length.

9                   <sup>6</sup> “150% Completion Rate” is the number of students who completed the  
10 program in the reported calendar year within 101-150% of the published program  
length divided by the Number of Students Available for Graduation in the published  
program length period.

11                   (e) Placement Rates.

12                   (1) Any placement data required by sections 94910(b) and 94929.5(a) of  
the Code shall be reported for the number of students who began the program as  
defined in subdivision (b) for each reported calendar year.

13                   (2) Placement is measured six months from the graduation date of each  
14 student. Reporting of placement rates shall include for each educational program: the  
number of students who began the program, the number of graduates as defined in  
15 subdivision (b), graduates available for employment, graduates employed in the field  
and placement rate(s).

16                   (3) Placement rate shall be calculated as follows: the number of graduates  
employed in the field as defined in subsection 74112(b)(3) divided by the number of  
17 graduates available for employment as defined in section 94928(d) of the Code.

18                   (4) Graduates employed in the field shall be reported for those graduates  
employed in the field in a single position that averages under 32 hours per week and  
19 those employed in the field in a single position that averages at least 32 hours per  
week.

20                   References to the Code are to the California Education Code where the  
California Private Postsecondary Education Act of 2009 is located.

21                   Placement rates shall be included in the Performance Fact Sheet in a  
22 format substantially similar to the chart below, including the footnoted information  
below (dates, numbers, and other data shown are for example only):

23                   Placement Rates (includes data for the two calendar years prior to  
24 reporting)

25                   **Name of Educational Program (Program Length)**

| Calendar Year | Number of Students Who Began Program <sup>1</sup> | Number of Graduates <sup>2</sup> | Graduates Available for Employment <sup>3</sup> | Graduates Employed in the Field <sup>4</sup> | Placement Rate % Employed in the Field <sup>5</sup> | Graduates Employed in the Field an average of less than 32 hours per week | Graduates Employed in the Field at least 32 hours per week |
|---------------|---|----------------------------------|---|--|---|---|--|
| 20XX          | 100   | 70                               | 70  | 55   | 79%   | 5   | 50   |
| 20XY          | 80  | 55                               | 55  | 20   | 36%   | 9   | 11   |

<sup>1</sup> "Number of Students Who Began Program" means the number of students who began the program who are scheduled to complete the program within the reporting calendar year.

<sup>2</sup> "Number of Graduates" is the number of students who have completed the program within 100% of the published program length.

<sup>3</sup> "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment. "Graduates unavailable for employment" means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education in an accredited or bureau-approved postsecondary institution.

<sup>4</sup> "Graduates employed in the field" means graduates who report that they are gainfully employed within six months of graduation in a position for which the skills obtained through the education and training provided by the institution are required or provided a significant advantage to the graduate in obtaining the position.

<sup>5</sup> Placement Rate is calculated by dividing the number of graduates gainfully employed in the field by the number of graduates available for employment.

(f) License Examination Passage Rates. If license examination passage rates are not available from the appropriate state agency, an institution shall collect the information directly from its graduates. If an institution demonstrates that, after reasonable efforts, it is unable to obtain the examination passage information from its graduates, the institution shall report the number of students it could not contact and note in a font the same size as the majority of the data on the Performance Fact Sheet, "License examination passage data is not available from the state agency administering the examination. We were unable to collect data from [enter the number] graduates."

Reporting of license examination passage rates for the Annual Report and the Performance Fact Sheet shall include, for each educational program: the number of students completing the program within 150% of published program length in the reported year, the number of documented graduates who passed the first examination, number of documented graduates who failed the first examination, the number of graduates for whom data is not available. An optional column may be added to separately report licensing examination data for students who take and pass the exam after failing initially. The Annual Report shall also include a description of the processes for attempting to contact those students.

For licensing examinations that are not continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format

substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

| Number of Students Taking Exam <sup>1</sup> | Exam Date <sup>2</sup> | Number Who Passed Exam | Number Who Failed Exam | Passage Rate <sup>3</sup> |
|---|------------------------|------------------------|------------------------|---------------------------|
| 80  | 2/1/20XX               | 40                     | 40                     | 50%                       |
| 100   | 6/1/20XX               | 75                     | 25                     | 75%                       |
| 82  | 10/1/20XX              | 68                     | 14                     | 76%                       |
| 80  | 2/1/20XY               | 40                     | 40                     | 50%                       |
| 100   | 6/1/20XY               | 70                     | 30                     | 70%                       |
| 92  | 10/1/20XY              | 62                     | 30                     | 67%                       |

*License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 32 graduates.*

<sup>1</sup> Number of Students Taking Exam is the number of students who completed the program within 150% of published program length and for whom the reported exam is the first exam that was available after their completion of the program.

<sup>2</sup> Exam Date is the date for the first available exam after the students completed the program.

<sup>3</sup> Passage Rate is calculated by dividing the number of students who pass the exam by the number of graduates who take the reported licensing exam.

For licensing examinations that are continuously administered, license examination passage rates shall be included in the Performance Fact Sheet in a format substantially similar to the chart below, including the footnoted information below (dates, numbers, and other data shown are for example only):

Examination Passage Rates (includes data for the two calendar years prior to reporting)

Name of Educational Program (Program Length)

| Calendar Year | Number of Students Taking Exam <sup>1</sup> | Number Who Passed First Exam Taken <sup>2</sup> | Number Who Failed First Exam Taken | Passage Rate <sup>3</sup> |
|---------------|---|---|------------------------------------|---------------------------|
| 20XX          | 80  | 40  | 40                                 | 50%                       |
| 20XY          | 100   | 75  | 25                                 | 75%                       |

*License examination passage data is not available from the state agency administering the examination. We were unable to collect data from 10 graduates.*

<sup>1</sup> Number of Students Taking Exam is the number of students who completed the program within 150% of the published program length and who took the exam in the reported calendar year for the first time.

<sup>2</sup> Number Who Passed First Exam Taken is the number of students who took and

passed the licensing exam in the reported calendar year on the first attempt.

<sup>3</sup> Passage Rate is calculated by dividing the number of graduates who pass the exam the first time that they take it by the number of graduates who took the licensing exam for the first time after completion of the program.

(g) Salary and Wage Information.

All Salary and Wage Information shall be reported to the Bureau pursuant to section 94929.5(c) of the Code and, if required by section 94910(d) of the Code, shall be included in the Performance Fact Sheet, for each educational program, in a format substantially similar to the chart below, including the footnoted information (dates, numbers, salaries, and other data shown are for example only).

Salary and Wage Information (includes data for the two calendar years prior to reporting)

**Name of Educational Program (Program Length)**

*Annual Salary and Wages Reported by Graduates Employed in the Field<sup>3</sup>*

| Calendar Year | Graduates Available for Employment <sup>1</sup> | Graduates Employed in the Field <sup>2</sup> | \$15,000.00 - \$20,000.00 - \$25,000.00 - \$30,000.00 - \$35,000.00 |                           |                           |                           | Students Not Reporting Salary |
|---------------|---|--|---|---------------------------|---------------------------|---------------------------|-------------------------------|
|               |   |  | \$15,000.00 - \$20,000.00   | \$20,000.00 - \$25,000.00 | \$25,000.00 - \$30,000.00 | \$30,000.00 - \$35,000.00 |                               |
| 20XX          | 100   | 70   | 5   | 40                        | 6                         | 3                         | 16                            |
| 20XY          | 80  | 55   | 5   | 7                         | 3                         | 5                         | 35                            |

<sup>1</sup> "Graduates available for employment" means the number of graduates minus the number of graduates unavailable for employment. Graduates unavailable for employment means graduates who, after graduation, die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the United States, or are continuing their education in an accredited or bureau-approved postsecondary institution.

<sup>2</sup> "Graduates employed in the field" means graduates who are gainfully employed within six months of graduation in a position for which the skills obtained through the education and training provided by the institution are required or provided a significant advantage to the graduate in obtaining the position.

<sup>3</sup> Salary is as reported by the student. Not all graduates reported salary...."

Statutes Governing Institutions' Websites or Statements on Websites

19. Section 94913 requires that an institution's web site contain certain information:

"(a) An institution that maintains an Internet Web site shall provide on that Internet Web site all of the following:

- (1) The school catalog.
  - (2) A School Performance Fact Sheet for each educational program offered by the institution.
  - (3) Student brochures offered by the institution.
  - (4) A link to the bureau's Internet Web site.
  - (5) The institution's most recent annual report submitted to the bureau.
- (b) An institution shall include information concerning where students may access the bureau's Internet Web site anywhere the institution identifies itself as

being approved by the bureau.”

1  
2 20. In pertinent part, Section 94897 subdivision (l) prohibits institutions from claiming on  
3 a website or other document that they are Bureau “approved” without further caveats:

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

5 ...

6 (l) Use the terms "approval," "approved," "approval to operate," or  
7 "approved to operate" without stating clearly and conspicuously that approval to  
8 operate means compliance with state standards as set forth in this chapter. If the  
bureau has granted an institution approval to operate, the institution may indicate that  
the institution is "licensed" or "licensed to operate," but may not state or imply either  
of the following:

9 (1) The institution or its educational programs are endorsed or  
recommended by the state or by the bureau.

10 (2) The approval to operate indicates that the institution exceeds  
11 minimum state standards as set forth in this chapter.”

12 *Statutes and Regulations Governing Institutions' School Catalogs*

13 21. Section 94909 sets minimum standards for institutions' school catalogs:

14 “(a) Prior to enrollment, an institution shall provide a prospective student,  
15 either in writing or electronically, with a school catalog containing, at a minimum, all  
of the following:

16 (1) The name, address, telephone number, and, if applicable, Internet  
Web site address of the institution.

17 ...

18 (5) A description of the programs offered and a description of the  
19 instruction provided in each of the courses offered by the institution, the requirements  
for completion of each program, including required courses, any final tests or  
20 examinations, any required internships or externships, and the total number of credit  
hours, clock hours, or other increments required for completion.

21 (6) If the educational program is designed to lead to positions in a  
profession, occupation, trade, or career field requiring licensure in this state, a notice  
to that effect and a list of the requirements for eligibility for licensure.

22 ...

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

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

28 ...

(11) A statement specifying that, if a student obtains a loan to pay for an

1 educational program, the student will have the responsibility to repay the full amount  
2 of the loan plus interest, less the amount of any refund, and that, if the student has  
3 received federal student financial aid funds, the student is entitled to a refund of the  
4 moneys not paid from federal student financial aid program funds.

5 ...

6 (15) The following statement:

7 **'NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND  
8 CREDENTIALS EARNED AT OUR INSTITUTION**

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

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

27 (A) Whether a graduate of the degree program will be eligible to sit for  
28 the applicable licensure exam in California and other states.

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

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

22. California Code of Regulations Title 5, section 71810 sets additional requirements for  
catalogs:

"(a) Each institution shall provide a catalog pursuant to section 94909 of  
the Code, which shall be updated annually. Annual updates may be made by the use  
of supplements or inserts accompanying the catalog. If changes in educational  
programs, educational services, procedures, or policies required to be included in the  
catalog by statute or regulation are implemented before the issuance of the annually  
updated catalog, those changes shall be reflected at the time they are made in  
supplements or inserts accompanying the catalog.

(b) The catalog shall contain the information prescribed by Section 94909  
of the Code and all of the following:

...

(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. . .”

**FIRST CAUSE FOR DENIAL OF APPLICATION**

**(Failure to Provide Proper Financial Statements)**

23. Respondent's application for renewal of approval to operate failed to include financial statements that met the statutory and regulatory requirements, subjecting its application to denial under Section 94885 for failing to operate the institution in compliance with the California Private Postsecondary Education Act of 2009, under Section 94887 for failing to present sufficient evidence to the Bureau that Respondent had the capacity to satisfy the minimum operating standards, under Section 94891 for failing to demonstrate its continued capacity to meet the minimum operating standards, and under California Code of Regulations title 5, section 71475 subdivision (kk) for submitting an incomplete renewal application.

24. On March 12, 2012, the Bureau received Respondent's Application for Renewal of Approval to Operate an Institution Non-Accredited. The Bureau assigned it Application Number 24562.

25. On April 27, 2012, the Respondent sent the Bureau more documents.

26. Respondent's application in April 2012 failed to include financial statements that complied with the requirements of California Code of Regulations title 5 section 74115: Respondent submitted an unaudited, unreviewed, one-page "Statement of Profit and Loss" for the year 2011 that had at least one significant math error.

27. On September 9, 2013, the Bureau wrote Respondent a letter identifying multiple problems with Respondent's Application, including problems with the financial statements. The Bureau's letter gave Respondent guidance on how to correct the problems.

28. On November 20, 2013, Respondent resubmitted its Application. This second submittal also lacked a proper financial statement: instead, Respondent submitted an unaudited, unreviewed, one-page "Statement of Profit and Loss" for the year 2012.

1 29. On November 21, 2013, the Bureau responded with a second letter identifying  
2 continuing problems with the resubmitted Application, including problems with the financial  
3 statements.

4 30. On December 26, 2013, Respondent again resubmitted its Application.

5 31. The Bureau denied the Application on March 19, 2014.

6 32. When Respondent again resubmitted its license renewal application in December 26,  
7 2013, its financial statements were still incomplete and improper:

| Regulation Violated | Description   |
|---------------------|---|
| 5 CCR § 74115(b)    | The financial statements did not include a cash flow statement.   |
| 5 CCR § 74115(b)(1) | The financial statements were not audited or reviewed by a certified public accountant.   |
| 5 CCR § 74115(b)(2) | The financial statements were not prepared in accordance with the generally accepted accounting principles established by the American Institute of Certified Public Accountants. Instead, they were prepared on an income tax basis. |
| 5 CCR §74115(d)     | The financial statements submitted in December 2013 failed to cover five months or more of the year 2013.   |

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16 33. In June 2014, Respondent belatedly submitted financial statements that were  
17 reviewed by a certified public accountant and did include a cash flow statement. But these  
18 financial statements were not prepared in accordance with generally accepted accounting  
19 principles, in violation of California Code of Regulations Title 5, section 74115 subdivision (b).

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(Misleading and Incomplete School Performance Fact Sheet)**

22 34. Respondent's application for renewal of approval to operate included a misleading  
23 and incomplete School Performance Fact Sheet that did not meet the statutory and regulatory  
24 requirements listed below, subjecting its application to denial under Section 94885 for failing to  
25 operate the institution in compliance with the Private Postsecondary Education Act, under Section  
26 94887 for failing to present sufficient evidence to the Bureau that it had the capacity to satisfy the  
27 minimum operating standards, under Section 94891 for failing to demonstrate its continued  
28



1 capacity to meet the minimum operating standards, and under California Code of Regulations title  
2 5, section 71475 subdivision (kk) for submitting an incomplete renewal application.

3 35. Complainant realleges paragraphs 24 to 31.

4 36. Respondent submitted School Performance Fact Sheets with its initial application in  
5 March 2012, with its November 2013 resubmittal, with its December 2013 resubmittal, and with  
6 its April 2014 resubmittal. Each iteration omitted required data and was not in the required  
7 format. Furthermore, the data Respondent reported in these fact sheets changed with each  
8 submittal.

9 37. Respondent's final School Performance Fact Sheet submittal in April 2014 omitted  
10 required data and was not in the required format, as follows:

| <b>Statutes or Regulations Violated</b>       | <b>Description</b>   |
|---|--|
| Section 94910(b) and 5 CCR § 74112(c-d, e, g) | The April 2014 School Performance Fact Sheet completely omitted data on Respondent's dental technician students, failing to report their completion rates, placement rates, and job and salary data for the previous two calendar years. But in its November 2013 and December 2013 submittals, Respondent had reported that it had 15 dental technicians enrolled in the period 2011 to 2012.   |
| Section 94910(b-d) and 5 CCR § 74112(d, e, g) | The April 2014 School Performance Fact Sheet did not include the completion rate, job placement, or salary and wage data in tables and footnotes that were "substantially similar" to the charts provided in regulation 74112(d), (e), and (g): each table presented omitted the explanatory footnotes required by the regulation. The Salary and Wage information chart also omitted the data column for students not reporting salary information. |

21 **THIRD CAUSE FOR DENIAL OF APPLICATION**

22 **(Website Omissions and Misstatements)**

23 38. Respondent's application for renewal of approval is subject to denial under Section  
24 94885 for failing to operate the institution in compliance with the Private Postsecondary  
25 Education Act because its website omits the information required by Section 94913 and makes  
26 prohibited assertions regarding Bureau approval.

27 39. Complainant realleges paragraphs 24 to 31 and 37.  
28

1 40. In violation of Section 94913(a), Respondent's website as of September 2013, during  
2 which its renewal application was pending, and as of November 2014 omitted its school catalog,  
3 School Performance Fact Sheet, student brochures, its most recent annual report submitted to the  
4 Bureau, and a link to the Bureau's website.

5 41. In violation of section 94897(l), Respondent's website in September 2013 and for  
6 some time preceding that had an entire paragraph touting its approval by the Bureau without  
7 "stating clearly and conspicuously that approval to operate means compliance with state standards  
8 as set forth in this chapter." Respondent's web site stated:

9 "The Unique Dental Lab College has been approved by California  
10 BPPVE. The College is specialized in training dental professionals. The College  
11 gets approval for permanent status CERT #9177548. All directors and instructors are  
12 holder of CERT. #COAFS-04-375789, main instructor having 37 years of teaching  
13 experience. The College contains Dental Technician Program and Dental Assisting  
14 Program; Both Programs have been approved by BPPVE."

15 42. This statement on Respondent's web site also violated section 94897(l)(1) because it  
16 implied the Bureau either endorsed or recommended Respondent or its Dental Technician and  
17 Dental Assisting programs.

#### 18 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

##### 19 **(Failure to Comply with School Catalog Requirements)**

20 43. Respondent's application for renewal of approval failed to submit school catalogs that  
21 met the statutory and regulatory requirements, subjecting its application to denial under Section  
22 94885 for failing to operate the institution in compliance with the California Private  
23 Postsecondary Education Act of 2009, under Section 94887 for failing to present sufficient  
24 evidence to the Bureau that Respondent had the capacity to satisfy the minimum operating  
25 standards, under Section 94891 for failing to demonstrate its continued capacity to meet the  
26 minimum operating standards, and under California Code of Regulations title 5, section 71475  
27 subdivision (kk) for submitting an incomplete renewal application.

28 44. Complainant realleges paragraphs 24 to 31.

45. Respondent's resubmitted school catalog did not list its internet web site address in  
violation of Section 94909(a)(1).

1 46. Respondent's resubmitted school catalog stated that instruction would be in Chinese  
2 and English, but did not state the level of Chinese proficiency required and the kind of  
3 documentation of proficiency, such as the United States Foreign Service Language Rating  
4 System, that would be accepted, in violation of California Code of Regulations title 5, section  
5 71810(b)(5).

6 47. Respondent's resubmitted school catalog states that in its admissions policies that it  
7 will accept applicants without a high school diploma, Certificate of Proficiency, or G.E.D.  
8 certificate, so long as the applicant receives a qualifying score on the Combined English  
9 Language Skills Assessment Ability to Benefit Test. This test is administered only to those with  
10 limited English proficiency. The admissions policies are silent with regards to whether a high  
11 school diploma, Certificate of Proficiency, or G.E.D. is required for applicants proficient in  
12 English, in violation of Section 94909(a)(8)(A) and California Code of Regulations title 5, section  
13 71770(b).

14 48. Respondent's resubmitted school catalog references in its "Notice Concerning  
15 Transferability of Credits and Credentials Earned at Our Institution" that a student might earn a  
16 "degree, diploma, or certificate" at Unique Dental Lab College, when, in fact, Unique Dental Lab  
17 College is not a degree granting institution, in violation of Section 94909(a)(15).

18 49. Respondent's resubmitted school catalog's description of its programs generally  
19 describes the courses required to complete its dental technician and dental assisting program, but  
20 does not list how many hours each course requires, in violation of Section 94909(a)(5).

21 **PRAYER**

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

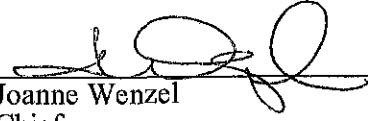
25 1. Denying the application of Unique Dental Lab College and its owner Zhi Yun Luo for  
26 a Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited  
27 Institutions; and

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2. Taking such other and further action as deemed necessary and proper.

DATED: 4/3/15

  
Joanne Wenzel  
Chief  
Bureau for Private Postsecondary Education  
Department of Consumer Affairs  
State of California  
*Complainant*

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