Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400, Sacramento, CA 95833
P.O. Box 980818, West Sacramento, CA 95798-0818
P (916) 431-6959 F (916) 263-1897 www.bppe.ca.gov

CITATION: ASSESSMENT OF FINE, ORDER OF ABATEMENT and RESTITUTION

To: J. Faron Brindley
Preferred College of Nursing, Los Angeles
3424 Wilshire Boulevard Suite 1100
Los Angeles, CA 90010

INSTITUTION CODE: 1939471
CITATION NUMBER: 1516038
CITATION ISSUANCE/SERVICE DATE: November 2, 2015
DUE DATE: December 1, 2015
FINE AMOUNT: $ 25,100
ORDER OF ABATEMENT INCLUDED: YES

Elainea Shotwell issues this Citation: Assessment of Fine, Order of Abatement, and Order of Restitution (Citation) in her official capacity as Enforcement Manager of the Bureau for Private Postsecondary Education (Bureau) of the California Department of Consumer Affairs.

CITATION

A Citation is hereby issued to J. Faron Brindley, Owner/Vice President/Chief Financial Officer and Custodian of Records of Preferred College of Nursing, Los Angeles located at 3424 Wilshire Boulevard Suite 1100, Los Angeles, CA 90010 pursuant to Business and Professions Code section 125.9; California Education Code (CEC) section 94936; and Title 5 of the California Code of Regulations (5 CCR) section 75020 for the violations described below.

VIOLATION

#	The California Education Code (CEC) and the California Code of Regulations (CCR). Below you will find the code section(s) of law you are charged with violating.
1.	**Violation:** CEC 94926 (a)(b)(d) -- Procedures Prior to Closing, Teach-Out Plans *"At least 30 days prior to closing, the institution shall notify the bureau in writing of its intention to close. The notice shall be accompanied by a closure plan, which shall include, but not necessarily be limited to, all of the following:* *(a) A plan for providing teach-outs of educational programs, including any agreements with any other postsecondary educational institutions to provide teach-outs.* *(b) If no teach-out plan is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that*

participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.
(d) A plan for the disposition of student records."

5, CCR 76240 (a)(1)(2)(3)(4)(A)(B)(5)(6)(b)(1)(2) -- Required Notices and Teach-Out Plan.
"All institutions, including those exempt from Bureau regulation pursuant to the Code, shall do the following prior to closing:
(a) At least 30 days prior to closing, the institution shall notify the Bureau in writing of its intention to close and provide a closure plan. The closure plan shall include:
(1) The exact date and reason for the closure.
(2) The last date of instruction for each educational service or program.
(3) A list of students who were enrolled at any time during the 60 days prior to closure.
(4) If any student will not be provided complete educational services or the educational program, the institution shall provide:
(A) A plan for providing teach-outs or transfers, including the details of any agreements with other institutions.
(B) If no teach-out is contemplated, or for students who do not wish to participate in a teach-out, arrangements for making refunds within 45 days from the date of closure, or for institutions that participate in federal student financial aid programs arrangements for making refunds and returning federal student financial aid program funds.
(5) A plan for the disposition of student records.
(6) A plan to notify students of their rights and options under the Act and this chapter.
(b) The institution shall notify the students of the following:
(2) If any student will not be provided complete educational services or the educational program, information regarding the Student Tuition Recovery Fund and the Bureau's physical and Internet addresses."

On 8/24/15, the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) sent a letter to Preferred College of Nursing, Los Angeles (PCN LA) revoking PCN LA's provisional approval to offer the Licensing Vocational Nursing (LVN) program.

On 9/8/15, PCN LA relinquished their accreditation with the Accrediting Bureau of Health Education Schools (ABHES) due to PCN LA's failure to respond to ABHES that PCN LA was still in operation.

On 9/14/15, Bureau staff sent Brindley and Bernard M. Sanchez (Sanchez) email correspondence addressing proper closure procedures with a School Closure Plan Form as an attachment.

On 9/14/15, Sanchez sent an email to Bureau staff with his admission that PCN LA was closed and confirmed that there were twelve LVN students that had not completed their education prior to closure. Sanchez stated that he would provide the Bureau with the completed School Closure Plan Form by 9/21/15.

On 9/28/15, AU, one of the twelve LVN students enrolled at PCN LA at the time of closure, disclosed to Bureau staff that the last class was held on Saturday, 8/15/15, at which time Sanchez verbally announced that PCN LA was closing. Sanchez did not offer a teach-out plan or provide refunds to the students.

	PCN LA failed to notify the Bureau of its intent to close and did not provide a teach-out plan prior to closing in violation of 5, CCR 76240(a)(1)(2)(3)(4)(A)(B)(5)(6)(b)(1)(2) and CEC 94926(a)(b)(d). **Order of Abatement:** The Bureau orders that owners of PCN LA submit a completed closure plan to the Bureau as required by CEC 94926 (a)(b)(d), 5, CCR 76240 (a)(1)(2)(3)(4)(A)(B)(5)(6)(b)(1)(2). **Assessment of Fine** The fine for this violation is $5,000
2.	**Violation:** 5, CCR 74200 – Cessation of Educational Program *"Every institution shall notify the Bureau in writing at least 30 days before the institution ceases to offer to the public any educational program."* Sanchez and Brindley did not notify the Bureau in writing of their intention to close PCN LA at least 30 days prior to closure in violation of 5, CCR 74200. **Assessment of Fine** The fine for this violation is $5,000
3.	**Violation:** CEC 94927 – Institutions in Default of Enrollment Agreement *"An institution shall be considered in default of the enrollment agreement when an educational program is discontinued or canceled or the institution closes prior to completion of the educational program. When an institution is in default, student institutional charges may be refunded on a pro rata basis if the bureau determines that the school has made provision for students enrolled at the time of default to complete a comparable educational program at another institution at no additional charge to the students beyond the amount of the total charges in the original enrollment agreement. If the institution does not make that provision, a total refund of all institutional charges shall be made to students."* On 9/28/15, AU, one of the twelve LVN students at PCN LA, provided names and email contact information for the LVN students that were enrolled at PCN LA at the time of closure. According to AU, PCN LA did not make any provisions for the twelve students and did not provide any of the students a total refund. In his email on 10/14/15, Sanchez confirmed that there were twelve students enrolled in the LVN program at PCN LA at the time of closure. PCN LA failed to make provisions and/or a full refund to the twelve students enrolled prior to PCN LA's closure on or about 8/15/15 as required by CEC 94927. **Order of Abatement:** The Bureau orders that the owners of PCN LA provide restitution that includes a total refund of all institutional charges to the remaining twelve students enrolled at the time of PCN LA's closure. Submit written evidence of compliance to the Bureau.

	Assessment of Fine The fine for this violation is $5,000
4.	**Violation:** CEC 94930.5 (a) – Fee Schedule *"Subject to Section 94930, an institution shall remit to the bureau for deposit in the Private Postsecondary Education Administration Fund the following fees, in accordance with the following schedule:* *(d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c), inclusive, each institution that is approved to operate pursuant to this chapter shall remit both of the following:* *(A) An annual institutional fee, in an amount equal to three-quarters of 1 percent of the institution's annual revenues derived from students in California, but not exceeding a total of twenty-five thousand dollars ($25,000) annually.* *(B) An annual branch fee of one thousand dollars ($1,000) for each branch or campus of the institution operating in California.* *(2) The amount of the annual fees pursuant to paragraph (1) shall be proportional to the bureau's cost of regulating the institution under this chapter."* CEC 94931 (a)(b) – Late Payment *"(a) A fee that is not paid on or before the 30th calendar day after the due date for the payment of the fee shall be subject to a 25 percent late payment penalty fee.* *(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee."* PCN LA failed to pay the Annual Institution/Branch Fee for the following: • Invoice (# 900302447), due on 9/1/14 • Invoice (# 900307683), due on 9/1/15 PCN LA failed to pay the Annual Institution/Branch Fee and the late penalty fees for the following: • Invoice (# 900302447) – Due date, 9/1/14 – 1st Delinquent date, 10/1/14 – 2nd Delinquent date, 11/30/14 • Invoice (# 900307683) – Due date, 9/1/15 – 1st Delinquent date, 10/1/15 – 2nd Delinquent date, 11/30/15 **Order of Abatement:** The Bureau orders that the owners of PCN LA submit Annual Institution fees and late penalty fees to the Bureau for the years 2014 and 2015. **Assessment of Fine** The fine for this violation is $2,550
5.	**Violation:** 5, CCR 71930 (f) – Maintenance of Records *"(f) If an institution closes, the institution and its owners are jointly and severally responsible to*

	arrange at their expense for the storage and safekeeping in California of all records required to be maintained by the Act and this chapter for as long as those records must be maintained. The repository of the records shall make these records immediately available for inspection and copying, without charge except as allowed under subdivision ©(4) of this section, during normal business hours by any entity authorized by law to inspect and copy records." The contact information listed in Bureau records for the Custodian of Records is no longer valid: 16043 Calahan Street North Hills, CA 91343 818-830-0058 – disconnected On 9/11/15, Brindley provided the Bureau with an invalid address location for the Custodian of Records at: 3704 Prestwick Drive Los Angeles, CA 90027 The Bureau obtained the Deed Record indicating that Brindley and Sanchez had sold the property on 8/19/15 at: 3704 Prestwick Drive Los Angeles, CA 90027 PCN LA failed to provide, prior to closing, the storage and safekeeping in California of all records in violation of 5, CCR 71930 (f). **Order of Abatement:** The Bureau orders that the owners of PCN LA provide valid contact information and provide all student records, including transcripts, in electronic format, at the owners' expense as required by 5, CCR 71930 (f). **Assessment of Fine** The fine for this violation is $5,000
6.	**Violation:** 5, CCR 76130 (d) – Collection and Submission of Assessments *"(d) In the event of a school closure, any collected assessments shall be remitted to the Bureau within seven days following the cessation of instruction."* PCN LA did not remit STRF assessment to the Bureau within seven days following closure on or about 8/15/2015. The STRF assessment should have been submitted on or about 8/22/15. **Order of Abatement:** The Bureau orders that the owners of PCN LA submit the STRF assessment to the Bureau. **Assessment of Fine** The fine for this violation is $2,550

7.	**Violation:** CEC 94927.5 (a)(1)(2) -- Provision of Records to Bureau Prior to Closing *"(a) Prior to closing, an institution shall provide the bureau with the following:* *(1) Pertinent student records, including transcripts, as determined by the bureau, pursuant to regulations adopted by the bureau.* *(2) If the institution is an accredited institution, a plan for the retention of records and transcripts, approved by the institution's accrediting agency, that provides information as to how a student may obtain a transcript or any other information about the student's coursework and degrees completed."* PCN LA failed to provide a plan, prior to closing, for the retention of records and transcripts, approved by the accreditation agency ABHES as required by CEC 94927.5 (a)(1)(2). **Order of Abatement:** The Bureau orders that owners of PCN LA provide student records, including transcripts, as required by CEC 94927.5 (a)(1)(2). **Assessment of Fine** The fine for this violation is $5,000
	TOTAL ADMINISTRATIVE FINE DUE: $25,100

ASSESSMENT OF A FINE

In accordance with CEC section 94936; and 5 CCR Sections 75020 and 75030, the Bureau hereby orders this assessment of fine in the amount of **$25,100** for the violations described above. **Payment must be made, to the Bureau, within 30 days from the date of service of the Citation.**

ORDER OF ABATEMENT

In accordance with the provisions of CEC Section 94936 and 5 CCR Section 75020 the Bureau hereby issues the order(s) of abatement described above. **Evidence of compliance with the order(s) of abatement must be submitted, to the Bureau, within 30 days from the date of service of the Citation.**

BACKGROUND

On 8/24/15, the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) sent a letter to Preferred College of Nursing, Los Angeles (PCN LA) revoking PCN LA's provisional approval to offer the Licensing Vocational Nursing (LVN) program.

On 9/8/15, PCN LA relinquished their accreditation with the Accrediting Bureau of Health Education Schools (ABHES) due to PCN LA's failure to respond to ABHES that PCN LA was still in operation.

On 9/11/15, J. Faron Brindley (Brindley) admitted to Bureau staff that PCN LA had closed.

On 9/14/15, Bureau staff emailed Brindley and Bernard M. Sanchez (Sanchez) addressing proper

closure procedures with a School Closure Plan Form as an attachment.

On 9/14/15, Sanchez emailed Bureau staff with his admission that PCN LA was closed and confirms that there were twelve LVN students that had not completed their education prior to closure. Sanchez stated that he would provide the Bureau with the completed School Closure Plan Form by 9/21/15. Sanchez and Brindley did not notify the Bureau of their intention to close PCN LA at least 30 days prior to closure, and failed to submit the School Closure Plan Form that Bureau staff had emailed to them on 9/14/15.

On 9/28/15, AU, one of the twelve LVN students enrolled at PCN LA at the time of closure, disclosed to Bureau staff that the last class was held on Saturday, 8/15/15, at which time Sanchez verbally announced that PCN LA was closing. AU stated that Sanchez did not offer a teach-out plan or provide refunds to the students. On 9/28/15, AU, one of the twelve LVN students at PCN LA, provided names and email contact information for the LVN students that were enrolled at PCN LA at the time of closure. PCN LA did not make any provisions for the twelve students and did not provide her or any of the other students a total refund.

On 10/1/15, Bureau staff conducted a site visit to 3424 Wilshire Blvd., Ste. 1100, Los Angeles, CA 90010, and confirmed PCN LA was no longer operational.

PCN LA failed to notify the Bureau of its intent to close and did not provide a teach-out plan prior to closing.

PCN LA failed to provide a plan, prior to closing, for the retention of records and transcripts, approved by the accreditation agency ABHES.

On 10/14/15, Sanchez emailed Bureau staff and confirmed that there were twelve students enrolled in the LVN program at PCN LA at the time of closure.

PCN LA failed to make provisions and/or a full refund to the twelve students enrolled prior to PCN LA's closure on or about 8/15/15.

PCN LA failed to pay the Annual Institution/Branch Fee and the late penalty fees for the years 2014 and 2015.

On 9/11/15, Brindley provided the Bureau with an address location for the Custodian of Records. The Bureau obtained the Deed Record indicating that Brindley and Sanchez had sold the property at that address on 8/19/15.

PCN LA owners, Brindley and Sanchez, did not respond to the Bureau's request to submit a School Closure Plan.

PCN LA did not remit STRF assessment to the Bureau within seven days following closure on or about 8/15/2015. The STRF assessment should have been submitted on or about 8/22/15.

No additional responses have been received from Sanchez or Brindley.

APPEAL OF CITATION

You have the right to contest this Citation through an informal conference with the Bureau; and/or through an administrative hearing in accordance with Chapter 5 (Commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you wish to contest this Citation, you must submit the 'Notice of Appeal of Citation – Request for Informal Conference and/or Administrative Hearing' form (enclosed) within 30 days from the date of service of the Citation. *If you do not request an informal conference and/or an administrative hearing within 30 days from the service of the Citation, you will not be able to request one at a later time.*

Unless a written request for an informal conference and/or an administrative hearing is signed by you and delivered to the Bureau by **December 1, 2015**, you will be deemed to have waived or forfeited your right to appeal this matter.

EFFECTIVE DATE OF CITATION

If you do not request an informal conference and/or an administrative hearing, this Citation shall become effective on **November 2, 2015.** Payment of the administrative fine and evidence of compliance with the order(s) of abatement shall be due by **December 1, 2015**. Your payment of the administrative fine shall not constitute an admission of the violation(s) charged.

If a hearing is requested, you will not be required to comply with this Citation until 30 days after a final order is entered against you.

Payment of the administrative fine and/or written request for appeal must be mailed to:

Jody Wright, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

Failure for an applicant or institution to abate the violation(s) listed above or to pay the administrative fine within the time allowed may result in denial of an application for an approval or renewal to operate; disciplinary action, and/or collection action. The Bureau will promptly take all appropriate action to enforce this Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this Citation, or desire further information, please contact Jody Wright, Enforcement Analyst, at 916-431-6940 or Jody.Wright@dca.ca.gov.

November 2, 2015

Elainea Shotwell
Enforcement Manager

Date

Enclosures

- Applicable Laws Violated
- Statement of Rights: Appeal Process Information Sheet
- Notice of Appeal of Citation: Request for Informal Conference and/or Administrative Hearing
- Payment of Fine – Waiver of Appeal
- Declaration of Service by Certified and First Class Mail