



Decision after Opportunity to be Heard

On February 13, 2012, the Bureau for Private Postsecondary Education (Bureau), Department of Consumer Affairs (DCA or Department) served an Emergency Decision (Decision) on Institute for Medical Education (IME) pursuant to its authority contained in Education Code section 94937 and 5 California Code of Regulations (C.C.R.) section 75150. That Decision ordered IME to:

- (1) Cease enrollment of new students in all of IME's programs;
- (2) Cease instruction for all of IME's programs;
- (3) Cease collection of tuition or fees for all of IME's programs.

Pursuant to 5 C.C.R. section 75150(d), IME requested an opportunity to be heard before the effective date of the Decision on February 16, 2012, at 12:01 a.m. That opportunity to be heard was before DCA's Chief Deputy Director Awet Kidane on February 14, 2012, at about 11:30 a.m. IME appeared through counsel, Mark Good. Also present from IME were Sunil Vethody, Chief Executive Officer, and Khoi Lam, Program Director.

The Bureau made the Decision upon a determination of an immediate danger to the public health, safety, or welfare, based upon the following factual allegations:

- The Institute is not an accredited institution. Nonetheless, the Institute is advertising, or indicating in promotional material, that it is accredited;
- The Institute is no longer financially viable in that it has withdrawn from the Federal Financial Aid Program. The Institute relies on student federal financial aid in order to operate;
- The Institute is in default of its enrollment agreement under Education Code section 94927 in that the junior class of the Institute's Dental Hygiene Program was discontinued on February 3, 2012. Also, on February 6, 2012, the Institute's Dental Hygiene Program Director resigned. In addition, on February 2, 2012, the Commission on Dental Accreditation (CODA) withdrew its accreditation of the Institute's Dental Hygiene Program;
- Most of the Institute's financial aid staff have left the Institute or been terminated; and
- The Institute has enrolled students in its MRI and Ultrasound programs even though the Bureau has not approved these programs.

These allegations can be categorized into three areas of (1) accreditation; (2) financial resources; and (3) program operation.

IME disputed that it is not an accredited institution, and asserts that it is accredited through June 30, 2016, by Western Association of Schools and Colleges – Accrediting Commission for Schools (WASC – Schools). IME presented a letter from WASC – Schools, its Certificate of

Accreditation, and an email from Lee Duncan, WASC – Schools. It also argues that it has placed a disclaimer on its website, indicating that its accreditor is no longer participating in Department of Education (DOE), and that IME is not eligible to participate in Title IV Financial Aid. IME maintains that it is exempt from Bureau oversight by virtue of its “WASC” accreditation.

The California Private Postsecondary Education Act of 2009, which regulates private, postsecondary institutions in California, defines “Accredited”:

“Accredited” means an institution is recognized or approved by an accrediting agency recognized by the United States Department of Education.” (Ed. Code § 94813.)

It is undisputed that WASC – Schools is no longer a nationally recognized accrediting agency. IME argues that it has lost nothing except DOE recognition, that this definition of accredited is only relevant with respect to Title IV (federal financial aid funding), and is not to being a sound educational program.

Even assuming, without finding, that DOE recognition is not strictly related to sound educational quality, it is true that IME is not accredited under the definition that governs its operation. IME’s accreditation by WASC – Schools, and no nationally recognized accrediting agency means that it is not accredited under the law.

IME also argues that it is exempt from Bureau regulation, since “WASC” schools have always been exempt from Bureau regulation.

Certain institutions are exempt from regulation under the California Private Postsecondary Education Act of 2009, including:

“An institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.” (Ed. Code § 94874(i).)

These accrediting agencies are sometimes referred to as WASC -- Senior, and WASC -- Junior. IME acknowledges that it is accredited by neither WASC – Senior, nor WASC -- Junior. It seems to rely upon a very broad usage of “WASC” to claim some exemption. Without some documentation of other accreditation by a regional accrediting agency, or some other basis for exemption (see Ed. Code §§ 91874, 94874.1), IME is not exempt from Bureau regulation.

Therefore, IME is not accredited, and cannot represent itself to be so, disclaimer notwithstanding. Nor is it exempt from regulation, since its accreditor is not “WASC,” but is WASC – Schools, neither WASC -- Senior nor WASC -- Junior. Accordingly, IME cannot represent that it is accredited. Nor is it exempt from regulation.

Because its accreditor has lost DOE recognition, IME will no longer participate in Title IV funding as of April 26, 2012. IME submits that it is still financially viable since a “percentage” of its students are still interested in enrollment and will pay tuition “out-of-pocket”; it is reducing tuition by 50% to assist students in doing that; it is downsizing its payroll; it is reducing its program offering to its “grass roots” programs; it is consolidating its 2 campuses in San Jose and Oakland to one campus near Fremont to help downsizing. IME also indicated that it is trying to secure funding for its students with a private financial company, and that it obtained private funding of \$450,000, which went toward overhead, and making a clean transition toward consolidated campuses. In addition, IME stated that it did not operate with Title IV funding until 2008, and therefore is able to operate without it now.

Although IME said that approximately 150 (out of approximately 350) students had confirmed that they wanted to continue in their programs, IME could not provide any evidence that it had sufficient funds to continue to provide their grass-roots programs, and was not clear on which programs those were. In addition, IME had not yet sought or obtained the required approval from the Bureau for a change in location for the two campuses. It indicated that it could not seek that approval without a lease, and that it was about to sign a lease for the Fremont location, but did not want to do that after it received the Emergency Decision.

There is no indication that IME was required to submit a signed lease for a new location to the Bureau to obtain approval. (See 5 C.C.R. § 71500.) There is no evidence that – even assuming that 150 students will continue in their programs without outside funding – that operating with less than half its student body at a 50% tuition reduction can give them sufficient assets and financial resources to operate according to the law. (See 5 C.C.R. § 71745.)

Lastly, with respect to the programs that it is operating, IME says that its students in the “junior” dental hygiene program have been moved to other sites. They presented no evidence, however, that that change due to a closure of the program was approved by the Bureau. (See 5 C.C.R. § 76240.) With respect to its MRI and Ultrasound programs, IME indicated that it had filed applications to add the programs before the former Bureau sunset on June 30, 2007. Although IME may have lawfully begun the programs after the time the former Bureau ceased operations, IME was required to seek approval of those programs after the current Bureau was in operation. (See 5 C.C.R. § 71655.) There is no evidence that it has done so.

Because IME has lost its institutional accreditation, cannot demonstrate that it has sufficient funds to operate at this time, and is has not either closed or operated certain programs with approval, there is an immediate danger to the public health, safety, or welfare of the students if IME continues to enroll and instruct its students. Accordingly, the Emergency Decision of the Bureau shall become effective as noticed on. This Decision shall remain in effect until withdrawn or modified, or there is a decision on the action filed by the Bureau to resolve the under-lying issues.

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AWET KIDANE
Chief Deputy Director
Department of Consumer Affairs