

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 DAVID E. BRICE  
Deputy Attorney General  
4 State Bar No. 269443  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-8010  
Facsimile: (916) 327-8643  
7 E-mail: David.Brice@doj.ca.gov  
*Attorneys for Complainant*

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

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

Case No. 1000335

13  
14 **AHERN'S MASSAGE THERAPY**  
**SCHOOL; DR. THOMAS F. AHERN, JR.,**  
15 **OWNER**

**STATEMENT OF ISSUES**

16 **Applicant for Renewal of Approval to**  
**Operate and Offer Educational Programs**  
17 **for Non-Accredited Institutions**

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about February 27, 2012, the Bureau for Private Postsecondary Education  
26 received an Application for Renewal of Approval to Operate and Offer Educational Programs for  
27 Non-Accredited Institutions from Ahern's Massage Therapy School, Dr. Thomas F. Ahern, Jr.,  
28 Owner (Respondent). On or about February 23, 2012, Dr. Thomas F. Ahern, Jr., certified under

1 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
2 application. The Bureau denied the application on February 6, 2015.

3 **STATUTORY PROVISIONS**

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

8 4. Section 94885<sup>1</sup> of the Code states, in pertinent part:

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

11 ...

12 (2) The institution maintains specific written standards for student admissions for  
13 each educational program and those standards are related to the particular educational  
14 program.

15 ...

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

18 ...”

19 5. Section 94891 of the Code states, in pertinent part:

20 “...

21 (b) To be granted a renewal of an approval to operate, the institution shall demonstrate its  
22 continued capacity to meet the minimum operating standards.”

23 6. Section 94897 of the Education Code states, in pertinent part:

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

25 ...

26  
27 <sup>1</sup> This section has been revised, effective January 1, 2015. The excerpted text was not  
28 materially changed by the revisions.

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

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

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

10 ...

11 (p) Offer an associate, baccalaureate, master's, or doctoral degree without disclosing to  
12 prospective students prior to enrollment whether the institution or the degree program is  
13 unaccredited and any known limitation of the degree, including, but not limited to, all of the  
14 following:

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

17 (2) A statement that reads: “A degree program that is unaccredited or a degree from  
18 an unaccredited institution is not recognized for some employment positions, including, but  
19 not limited to, positions with the State of California.”

20 (3) That a student enrolled in an unaccredited institution is not eligible for federal  
21 financial aid programs.”

22 7. Section 94904<sup>2</sup> of the Code states, in pertinent part:

23 “(a) Before an ability-to-benefit student may execute an enrollment agreement, the  
24 institution shall have the student take an independently administered examination from the list of  
25 examinations prescribed as of July 1, 2012, by the United States Department of Education  
26 pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et  
27 seq.). The student shall not enroll unless the student achieves a score, as specified by the United  
28 States Department of Education, demonstrating that the student may benefit from the education  
and training being offered.

(b) If the United States Department of Education does not have a list of relevant  
examinations that pertain to the intended occupational training, the bureau may publish its own  
list of acceptable examinations and required passing scores.”

---

<sup>2</sup> See footnote 1.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

8. Section 94909<sup>3</sup> of the Code states, in pertinent part:

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

...

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

...

(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.

...

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

...

(C) Probation and dismissal policies.

...

(E) Leave-of-absence policies.

...

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

(12) A statement specifying whether the institution has a pending petition in bankruptcy, is operating as a debtor in possession, has filed a petition within the preceding five years, or has had a petition in bankruptcy filed against it within the preceding five years that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

...

---

<sup>3</sup> See as footnote 1.

1 (14) A description of the student's rights and responsibilities with respect to the  
2 Student Tuition Recovery Fund. This statement shall specify that it is a state requirement  
3 that a student who pays his or her tuition is required to pay a state-imposed assessment for  
4 the Student Tuition Recovery Fund. This statement shall also describe the purpose and  
operation of the Student Tuition Recovery Fund and the requirements for filing a claim  
against the Student Tuition Recovery Fund.

5 (15) The following statement:

6 "NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND  
7 CREDENTIALS EARNED AT OUR INSTITUTION

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

14 (16) A statement specifying whether the institution, or any of its degree programs, are  
15 accredited by an accrediting agency recognized by the United States Department of  
16 Education. ..."

17 9. Section 94910 of the Education Code states:

18 "Except as provided in subdivision (d) of Section 94909 and Section 94910.5, prior to  
19 enrollment, an institution shall provide a prospective student with a School Performance Fact  
20 Sheet containing, at a minimum, the following information, as it relates to the educational  
program:

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

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

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

28 ///

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

3 (e) If a program is too new to provide data for any of the categories listed in this  
4 subdivision, the institution shall state on its fact sheet: "This program is new. Therefore, the  
5 number of students who graduate, the number of students who are placed, or the starting salary  
6 you can earn after finishing the educational program are unknown at this time. Information  
7 regarding general salary and placement statistics may be available from government sources or  
8 from the institution, but is not equivalent to actual performance data."

9 (f) All of the following:

10 (1) A description of the manner in which the figures described in subdivisions (a)  
11 to (d), inclusive, are calculated or a statement informing the reader of where he or she may  
12 obtain a description of the manner in which the figures described in subdivisions (a) to  
13 (d), inclusive, are calculated.

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

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

21 (g) The following statements:

22 (1) "This fact sheet is filed with the Bureau for Private Postsecondary Education.  
23 Regardless of any information you may have relating to completion rates, placement rates,  
24 starting salaries, or license exam passage rates, this fact sheet contains the information as  
25 calculated pursuant to state law."

26 (2) "Any questions a student may have regarding this fact sheet that have not been  
27 satisfactorily answered by the institution may be directed to the Bureau for Private  
28 Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site  
address), (telephone and fax numbers)."

(h) If the institution participates in federal financial aid programs, the most recent three-  
year cohort default rate reported by the United States Department of Education for the institution  
and the percentage of enrolled students receiving federal student loans.

(i) Data and information disclosed pursuant to subdivisions (a) to (d), inclusive, is not  
required to include students who satisfy the qualifications specified in subdivision (d) of Section  
94909, but an institution shall disclose whether the data, information, or both provided in its fact  
sheet excludes students pursuant to this subdivision. An institution shall not actively use data

1 specific to the fact sheet in its recruitment materials or other recruitment efforts of students who  
2 are not California residents and do not reside in California at the time of their enrollment.”

3 10. Section 94911 of the Education Code states, in pertinent part:

4 “An enrollment agreement shall include, at a minimum, all of the following:

5 ...

6 (b) A schedule of total charges, including a list of any charges that are nonrefundable and  
7 the student's obligations to the Student Tuition Recovery Fund, clearly identified as  
8 nonrefundable charges.

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

13 ...”

14 11. Section 94934 of the Education Code states:

15 “(a) As part of the compliance program, an institution shall submit an annual report to the  
16 bureau, under penalty of perjury, signed by a responsible corporate officer, by July 1 of each year,  
17 or another date designated by the bureau, and it shall include the following information for  
18 educational programs offered in the reporting period:

19 (1) The total number of students enrolled by level of degree or for a diploma.

20 (2) The number of degrees, by level, and diplomas awarded.

21 (3) The degree levels and diplomas offered.

22 (4) The Student Performance Fact Sheet, as required pursuant to Section 94910.

23 (5) The school catalog, as required pursuant to Section 94909.

24 (6) The total charges for each educational program by period of attendance.

25 (7) A statement indicating whether the institution is, or is not, current in remitting  
26 Student Tuition Recovery Fund assessments.

27 (8) A statement indicating whether an accrediting agency has taken any final  
28 disciplinary action against the institution.

(9) Additional information deemed by the bureau to be reasonably required to  
ascertain compliance with this chapter.

(b) The bureau, by January 1, 2011, shall prescribe the annual report's format and method of  
delivery.”

1 REGULATIONS

2 12. Title 5 of the California Code of Regulations, section 71745, (5 CCR § 71745), states,  
3 in pertinent part:

4 “(a) The institution shall document that it has at all times sufficient assets and financial  
5 resources to do all of the following:

6 (1) Provide all of the educational programs that the institution represented it would  
7 provide.

8 (2) Ensure that all students admitted to its educational programs have a reasonable  
9 opportunity to complete the programs and obtain their degrees or diplomas.

10 (3) Maintain the minimum standards required by the Act and this chapter.

11 (4) Pay timely refunds as required by Article 13 of the Act.

12 (5) Pay all operating expenses due within 30 days.

13 (6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at  
14 the end of the most recent fiscal year when using generally accepted accounting principles,  
15 or for an institution participating in Title IV of the federal Higher Education Act of 1965,  
16 meet the composite score requirements of the U.S. Department of Education. For the  
17 purposes of this section, current assets does not include: intangible assets, including  
18 goodwill, going concern value, organization expense, startup costs, long-term prepayment  
of deferred charges, and non-returnable deposits, or state or federal grant or loan funds that  
are not the property of the institution but are held for future disbursement for the benefit of  
students. Unearned tuition shall be accounted for in accordance with general accepted  
accounting principles.

19 ...”

20  
21 13. 5 CCR § 71770 states, in pertinent part:

22 “(a) The institution shall establish specific written standards for student admissions for  
23 each educational program. These standards shall be related to the particular educational program.  
24 An institution shall not admit any student who is obviously unqualified or who does not appear to  
have a reasonable prospect of completing the program. In addition to any specific standards for an  
educational program, the admissions standards must specify as applicable that:

25 (1) Each student admitted to an undergraduate degree program, or a diploma  
26 program, shall possess a high school diploma or its equivalent, or otherwise successfully  
27 take and pass the relevant examination as required by section 94904 of the Code.

28 ...”



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

14. 5 CCR § 71810 states, in pertinent part:

“(a) Each institution shall provide a catalog pursuant to section 94909 of the Code, which shall be updated annually. ...

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

(1) The specific beginning and ending dates defining the time period covered by the catalog;

...

(3) If the institution admits students from other countries, whether visa services are provided or whether the institution will vouch for student status, and any associated charges;

(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;

...

(7) The institution's policies and procedures for the award of credit for prior experiential learning, including assessment policies and procedures, provisions for appeal, and all charges that a student may be required to pay;

...

(9) A description of the facilities and of the types of equipment and materials that will be used for instruction;

...

(13) Housing information including all of the following:

(A) Whether the institution has dormitory facilities under its control;

1 (B) The availability of housing located reasonably near the institution's  
2 facilities and an estimation of the approximate cost or range of cost of the housing;  
3 and

4 (C) If the institution has no responsibility to find or assist a student in finding  
5 housing, a clear and conspicuous statement so indicating. A statement that the  
6 program is "non- residential" does not satisfy this subparagraph.

7 (14) Policies on student rights, including the procedure for addressing student  
8 grievances;

9 ..."

10 15. 5 CCR § 74110 states:

11 "(a) The annual report required by section 94934 of the Code shall include the information  
12 required by section 94934 for all educational programs offered in the prior calendar year.

13 (b) In addition to the information required by section 94934 provided under penalty of  
14 perjury, the institution shall have annual financial statements prepared for the institution's prior  
15 fiscal year and signed under penalty of perjury, and shall submit a hard copy under separate cover  
16 of such statements in conjunction with its annual report. The form, content and mode of  
17 preparation of financial statements shall comply with section 74115 of this Division. The Bureau  
18 may request that the institution immediately make available for inspection to a representative of  
19 the Bureau, these financial statements at the offices of the institution.

20 (c) An institution shall file its annual report by September 1st. The Bureau may extend the  
21 period for filing if the institution demonstrates evidence of substantial need but in no case longer  
22 than 60 days. The institution shall not change the date of its filing its annual report because of a  
23 change in the fiscal year without the Bureau's approval.

24 (d) The annual report shall be electronically filed by submitting the information required  
25 by section 94934 of the Code via the Bureau's website, electronically attaching, as directed, the  
26 School Performance Fact Sheet and the school catalog. An institution without the capability to  
27 submit the information electronically shall inform the Bureau not less than 45 days prior to the  
28 date the information is required by subdivision (c), and receive direction on alternative means of  
29 submission."

30 16. 5 CCR § 74112 states, in pertinent part:

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

35 ..."

36 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

17. 5 CCR § 74115 states, in pertinent part:

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

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

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

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

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

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

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

(c) Work papers for the financial statements shall be retained for five years from the date of the statements and shall be made available to the Bureau upon request.

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

///

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

18. 5 CCR § 76120<sup>4</sup> states, in pertinent part:

“(a) Each qualifying institution shall collect an assessment of fifty cents (\$.50) per one thousand dollars (\$1,000) of institutional charges, rounded to the nearest thousand dollars, from each student in an educational program who is a California resident or is enrolled in a residency program. For institutional charges of one thousand dollars (\$1,000) or less, the assessment is fifty cents (\$.50).

...”

19. 5 CCR § 76215 states:

“(a) A qualifying institution shall include the following statement on both its enrollment agreement for an educational program and its current schedule of student charges:

‘You must pay the state-imposed assessment for the Student Tuition Recovery Fund (STRF) if all of the following applies to you:

- 1. You are a student in an educational program, who is a California resident, or are enrolled in a residency program, and prepay all or part of your tuition either by cash, guaranteed student loans, or personal loans, and
- 2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.

You are not eligible for protection from the STRF and you are not required to pay the STRF assessment, if either of the following applies:

- 1. You are not a California resident, or are not enrolled in a residency program, or
- 2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party.’

(b) In addition to the statement described under subdivision (a) of this section, a qualifying institution shall include the following statement on its current schedule of student charges:

‘The State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by students in educational programs who are California residents, or are enrolled in a residency programs attending certain schools regulated by the Bureau for Private Postsecondary and Vocational Education.

<sup>4</sup> This section was amended to reduce the assessment to zero dollars, effective January 1, 2015. The quoted text reflects the previous assessment, effective January 1, 2013.

1 You may be eligible for STRF if you are a California resident or are enrolled in a  
2 residency program, prepaid tuition, paid the STRF assessment, and suffered an economic  
loss as a result of any of the following:

3 1. The school closed before the course of instruction was completed.

4 2. The school's failure to pay refunds or charges on behalf of a student to a third  
5 party for license fees or any other purpose, or to provide equipment or materials for which a  
charge was collected within 180 days before the closure of the school.

6  
7 3. The school's failure to pay or reimburse loan proceeds under a federally  
8 guaranteed student loan program as required by law or to pay or reimburse proceeds  
received by the school prior to closure in excess of tuition and other costs.

9  
10 4. There was a material failure to comply with the Act or this Division within 30  
11 days before the school closed or, if the material failure began earlier than 30 days prior to  
closure, the period determined by the Bureau.

12 5. An inability after diligent efforts to prosecute, prove, and collect on a judgment  
against the institution for a violation of the Act.”

13 However, no claim can be paid to any student without a social security number or a  
14 taxpayer identification number.”

15 **CAUSE FOR DENIAL OF APPLICATION**

16 (Failure to demonstrate continued capacity to satisfy minimum operating standards)

17 20. Respondent's application for renewal of approval to operate is subject to denial under  
18 section 94891(b) of the California Education Code in that Respondent did not present sufficient  
19 evidence to the Bureau that Respondent has the continued capacity to satisfy the minimum  
20 operating standards.

21 21. Respondent's "Application for Renewal of Approval to Operate and Offer  
22 Educational Programs for Non-Accredited Institutions" was received on February 27, 2012, with  
23 the application fee. The Bureau issued a deficiency letter on March 8, 2012. On April 9, 2012,  
24 the Bureau received a response to that deficiency letter. On April 29, 2012, the Bureau sent a  
25 second deficiency letter to Respondent. On August 1, 2012, the Bureau received a response from  
26 Respondent to the second deficiency letter. On January 17, 2013, a third deficiency letter was  
27 sent to Respondent. There was no response to the third deficiency letter.  
28

1           22. On February 6, 2015, the Bureau sent Respondent a "Notice of Denial" letter stating  
2 that the application is subject to denial under Code section 94891 for the following reasons:

3           a. The institution failed to submit an updated enrollment agreement reflecting the  
4 change in the amount of the student's obligation to the Student Tuition Recovery Fund  
5 (STRF), in violation of Code section 94911(b).

6           b. The institution failed to provide a comprehensible statement of the various  
7 charges for attendance on the same page of the enrollment agreement as the student's  
8 signature, in violation of Code section 94911(c).

9           c. The institution failed to include the admission requirements that each student  
10 shall possess a high school diploma or its equivalent, or pass the ability-to-benefit  
11 examination, in violation of Code sections 94885(a)(2) and 94904 and 5 CCR §  
12 71770(a)(1).

13           d. The institution failed to submit acceptable financial statements with its  
14 application, in violation of Code sections 94885(a)(6) and 5 CCR §§ 71745 and 74115.

15           e. The institution failed to list in its catalog specific beginning and ending dates  
16 defining the time period covered by the catalog, in violation of 5 CCR § 71810(b)(1).

17           f. The institution failed to list in its catalog that approval to operate as a private  
18 institution means compliance with state standards as set forth in Chapter 8 of Division 10  
19 of Title 3 of the Education Code, in violation of Code sections 94897(1) and 94909(a)(2).

20           g. The institution failed to include in its catalog a statement specifying whether it  
21 has a pending petition in bankruptcy, is operating as a debtor in possession, has filed a  
22 petition within the preceding five years, or has had a petition in bankruptcy filed against it  
23 within the preceding five years that resulted in reorganization under Chapter 11 of the  
24 United States Bankruptcy Code, in violation of Code section 94909(a)(12).

25           h. The institution failed to list in its catalog a description of the facilities and of  
26 the types of equipment and materials that will be used for instruction, in violation of 5  
27 CCR § 71810(b)(9).

28 ///

1 i. The institution failed to list in its catalog the required language that addresses  
2 transferability of credits and credentials, in violation of Code section 94909(a)(15).

3 j. The institution failed to list in its catalog whether it has a policy for the award  
4 of credit for prior experiential learning, including assessment policies and procedures,  
5 provisions for appeal, and all charges that a student may be required to pay, in violation of  
6 5 CCR § 71810(b)(7).

7 k. The institution failed to list in its catalog whether it admits students from other  
8 countries and if so, whether visa services are provided or whether the institution will  
9 vouch for student status, and any associated charges, in violation of 5 CCR § 71810(b)(3).

10 l. The institution failed to include information in its catalog regarding the kind of  
11 documentation of English proficiency that will be accepted, in violation of 5 CCR §  
12 71810(b)(4).

13 m. The institution failed to include in its catalog clear notice whether the  
14 educational program is designed to lead to a position requiring licensure and a list of the  
15 requirements for eligibility for licensure, in violation of Code section 94909(a)(6).

16 n. The institution failed to include in its catalog a statement specifying whether  
17 the institution, or any of its degree programs, are accredited by an accrediting agency  
18 recognized by the United States Department of Education, in violation of Code sections  
19 94909(a)(16) and 94897(p).

20 o. The institution failed to include in its catalog the entire text of the required  
21 language related to the STRF, in violation of Code section 94909(a)(14) and 5 CCR §  
22 76215(a) and (b).

23 p. The institution failed to include in its catalog the complete required statement  
24 related to repayment of loans and federal student financial aid funds, in violation of Code  
25 section 94909(a)(11).

26 q. The institution failed to include in its catalog probation and dismissal policies,  
27 in violation of Code section 94909(a)(8)(C).

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

r. The institution failed to include in its catalog leave-of-absence policies, in violation of Code section 94909(a)(8)(E).

s. The institution failed to include in its catalog policies on student rights, including the procedure for addressing student grievances, in violation of 5 CCR § 71810(b)(14).

t. The institution failed to include in its catalog information regarding whether the institution has dormitory facilities under its control, the approximate cost or range of cost of student housing, and if the institution has the responsibility to assist students in finding housing, in violation of 5 CCR § 71810(b)(13)(A), (B), and (C).

u. The institution failed to provide a compliant School Performance Fact Sheet (SPFS), in violation of Code section 94910 and 5 CCR § 74112.

v. The institution failed to complete the STRF Assessment Reporting Form and remit it to the Bureau with the STRF assessment collected for the first three quarters of 2014, in violation of 5 CCR § 76120(a).

w. The institution failed to provide an annual report to the Bureau in 2011, 2012, and 2013, in violation of Code section 94934 and 5 CCR § 74110.

///  
///  
///




1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER**

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

1. Denying the application of Ahern's Massage Therapy School, Dr. Thomas F. Ahern, Jr., Owner, for Renewal of Approval to Operate and Offer Educational Programs for Non-Accredited Institutions;
2. Taking such other and further action as deemed necessary and proper.

DATED: 6/26/15

  
\_\_\_\_\_  
JOANNE WENZEL  
Chief  
Bureau for Private Postsecondary Education  
Department of Consumer Affairs  
State of California  
*Complainant*

SA2015102549  
11907347.doc