

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ZACHARY T. FANSELOW
Deputy Attorney General
4 State Bar No. 274129
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2562
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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. 1001497

13 **THE UNIVERSITY OF NATURAL**
14 **MEDICINE**

STATEMENT OF ISSUES

14 **Approval to Operate an Institution Non-**
15 **Accredited Applicant**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about December 5, 2011, the Bureau for Private Postsecondary Education
25 received an Application for Approval to Operate an Institution Non-Accredited from The
26 University of Natural Medicine ("Respondent"). On or about December 1, 2011, Respondent
27 certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application. The Bureau denied the application on February 9, 2016.

1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Director of the Department of
3 Consumer Affairs ("Director") for the Bureau for Private Postsecondary Education, under the
4 authority of the following laws.

5 **STATUTORY PROVISIONS**

6 4. Business and Professions Code section 22 states: "Board," as used in any provision of
7 this code, refers to the board in which the administration of the provision is vested, and unless
8 otherwise expressly provided, shall include "bureau," "commission," "committee," "department,"
9 "division," "examining committee," "program," and "agency."

10 5. Business and Professions Code section 480 states, in pertinent part:

11 "(a) A board may deny a license regulated by this code on the grounds that the applicant
12 has one of the following:

13

14 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
15 would be grounds for suspension or revocation of license."

16 6. Section 94885 of the Education Code¹ states:

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

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

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

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

24 "(4) The institution maintains a withdrawal policy and provides refunds.

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

26
27
28 ¹ California Private Postsecondary Education Act of 2009, Ed. Code §§ 94800, et seq.

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

3 “(7) That, upon satisfactory completion of an educational program, the institution gives
4 students a document signifying the degree or diploma awarded.

5 “(8) Adequate records and standard transcripts are maintained and are available to students.

6 “(9) The institution is maintained and operated in compliance with this chapter and all other
7 applicable ordinances and laws.

8 “(b) Except as provided in Section 94855.1, an institution offering a degree must satisfy one
9 of the following requirements:

10 “(i) Accreditation by an accrediting agency recognized by the United States Department of
11 Education, with the scope of that accreditation covering the offering of at least one degree
12 program by the institution.

13 “(ii) An accreditation plan, approved by the bureau, for the institution to become fully
14 accredited within five years of the bureau's issuance of a provisional approval to operate to the
15 institution. The provisional approval to operate to an unaccredited degree-offering institution
16 shall be in compliance with Section 94885.5.”

17 7. Section 94814 of the Education Code states: “‘Accrediting agency’ is an agency
18 recognized by the United States Department of Education.”

19 8. Section 94886 of the Education Code states: “Except as exempted in Article 4
20 (commencing with Section 94874) or in compliance with the transition provisions in Article
21 (commencing with Section 94802), a person shall not open, conduct, or do business as a private
22 postsecondary educational institution in this state without obtaining an approval to operate under
23 this chapter.”

24 9. Section 94897 of the Education Code states, in pertinent part:

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

26

27 “(e) Advertise, or indicate in promotional material, that the institution is accredited, unless
28 the institution has been accredited by an accrediting agency.”

1 10. Section 94909 of the Education Code states, in pertinent part:

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

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

7

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

9 11. Section 94913 of the Education Code states, in pertinent part:

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

12

13 “(2) A School Performance Fact Sheet for each educational program offered by the
14 institution.

15

16 “(5) The institution's most recent annual report submitted to the bureau.”

17 **REGULATORY PROVISIONS**

18 12. California Code of Regulations, title 5, section 71110 states, in pertinent part:

19 “An institution shall provide the following information on the Form Application 94886:

20 “(a) The name, telephone number, fax number and website address of the institution.”

21 13. California Code of Regulations, title 5, section 71220 states:

22 “For each educational program that the institution offers or proposes to offer, the Form
23 Application 94886 shall contain a statement that the educational program meets the requirements
24 of section 71710, as well as the following:

25 “(a) A description of the educational program.

26 “(b) A description of the equipment to be used during the educational program.

27 “(c) A description of the number and qualifications of the faculty needed to teach the
28 educational program.

1 “(d) A projection, and the bases for the projection, of the number of students that the
2 institution plans to enroll in the educational program during each of the three years following the
3 date the Form Application 94886 was submitted.

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

6 “(f) If licensure is a goal of an educational program, a copy of the approval from the
7 appropriate licensing agency if required. A copy of the intent to approve conditioned solely upon
8 institutional approval from the Bureau will also meet this requirement.

9 “Upon request, the institution shall provide to the Bureau copies of the curriculum or
10 syllabi required pursuant to section 71710.”

11 14. California Code of Regulations, title 5, section 71710 states:

12 “In order to meet its mission and objectives, the educational program defined in section
13 94837 of the Code shall be comprised of a curriculum that includes:

14 “(a) those subject areas that are necessary for a student to achieve the educational objectives
15 of the educational program in which the student is enrolled;

16 “(b) subject areas and courses or modules that are presented in a logically organized manner
17 or sequence to students;

18 “(c) course or module materials that are designed or organized by duly qualified faculty.
19 For each course or module, each student shall be provided with a syllabus or course outline that
20 contains:

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

22 “(2) a statement of educational objectives;

23 “(3) length of the educational program;

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

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

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

28 “(7) instructional mode or methods.

1 “(d) if degree granting, require research of an appropriate degree that utilizes a library and
2 other learning resources;

3 “(e) specific learning outcomes tied to the sequence of the presentation of the material to
4 measure the students' learning of the material; and

5 “(f) evaluation by duly qualified faculty of those learning outcomes.”

6 15. California Code of Regulations, title 5, section 71715 states, in pertinent part:

7 “(d) Distance education as defined in section 94834 of the Code, does not require the
8 physical presence of students and faculty at the same location but provides for interaction
9 between students and faculty by such means as telecommunication, correspondence, electronic
10 and computer augmented educational services, postal service, and facsimile transmission. In
11 addition to the other requirements of this chapter and the Act, an institution offering distance
12 education shall:

13 “(1) ensure that the educational program offered through distance education is appropriate
14 for delivery through distance education methods;

15

16 “(5) maintain clear standards for satisfactory academic progress;

17 “(6) timely complete student evaluations of learning outcomes by duly qualified faculty,
18 which are appropriate for use with the distance education methods used, and evaluated by duly
19 qualified faculty.”

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

21 “(a) An Educational Program Leading to a Degree.

22 “(1) An institution offering an educational program that leads to a degree shall employ duly
23 qualified faculty sufficient in number to provide the instruction, student advisement, and learning
24 outcomes evaluation necessary for the institution to document its achievement of its stated
25 mission and objectives, and for students to achieve the specific learning objectives of each course
26 offered;

27

28 “(6) When contracting for educational services, the institution shall maintain control of, and

1 responsibility for, all academic matters, and shall assure that the instruction and faculty satisfy the
2 standards established by the Act and this chapter;

3

4 “(9) The institution shall maintain records documenting that each faculty member is duly
5 qualified and was qualified to perform the duties to which the faculty member was assigned,
6 including providing instruction, evaluating learning outcomes, evaluating graduate dissertations,
7 theses, and student projects, and participating on doctoral committees.”

8 17. California Code of Regulations, title 5, section 71810 states, in pertinent part:

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

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 **(Organization and Management)**

17 18. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A),
18 and California Code of Regulations, title 5, section 71720, in that Respondent submitted an
19 organizational chart that did not meet minimum operating standards. Specifically, Respondent is
20 unable to prove compliance with California Code of Regulations, title 5, section 71720,
21 subdivisions (a)(1) and (a)(9), because Respondent identified instructors and their credentials in a
22 document received by the Bureau on November 16, 2015, but Respondent then submitted an
23 organizational chart, received by the Bureau on January 4, 2016, which identified a substantially
24 different list of instructors. Consequently, the Bureau is unable to determine whether the faculty
25 members Dr. D, Dr. I, Dr. K, Dr. P, and Dr. S are duly qualified to instruct the courses to which
26 they may be assigned and whether the listed individuals are current employees of the university.

27 ///

28 ///

SECOND CAUSE FOR DENIAL OF APPLICATION

(Advertising)

19. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A), Education Code sections 94886, 94897, and 94913, as well as California Code of Regulations, title 5, section 71110, in that Respondent's website both lacks documents and information it is required to have and includes prohibited statements or information. Each violation is a sole and separate cause for denial. The violations are as follows:

a. Respondent is unable to prove compliance with Education Code section 94913, subdivision (a)(2), in that, as of January 20, 2016, Respondent's website still displayed the 2010/2011 school performance fact sheet. Respondent has not submitted a new school performance fact sheet within the last four years.

b. Respondent is unable to prove compliance with Education Code section 94913, subdivision (a)(5), in that, as of January 20, 2016, Respondent's website does not provide the most recent annual report. Respondent has not submitted an annual report to the Bureau within the last four years.

c. Respondent is unable to prove compliance with Education Code section 94897, subdivision (e), in that, as of January 20, 2016, Respondent's website still displayed the following information:

Accreditation

The University of Natural medicine is accredited by the **American Naturopathic Medical Accreditation Board and the American Naturopathic Medical Board**. These two bodies examine and qualify educational programs that represent traditional medicines and holistic treatment programs.
(emphasis added)

Displaying this information is a prohibited business practice because an institution shall not advertise or indicate in promotional material that it is accredited unless it has been accredited by an accrediting agency recognized by the United States Department of Education pursuant to Education Code section 94814. Neither the American Naturopathic Medical Accreditation Board nor the American Naturopathic Medical Board are accrediting agencies as recognized by the United States Department of Education.

1 d. Respondent is unable to prove compliance with Education Code section 94886 and
2 California Code of Regulations, title 5, section 71110, subdivision (a), in that Respondent has
3 advertised in promotional material, including the website www.unmca.org (active as of January
4 21, 2016), that it offers programs to the public under the name "University of Natural Medicine
5 California." Institutions must only use and advertise under their officially licensed name.
6 Institutions also may not advertise using two different websites (universitynatrualmcine.org
7 and unmca.org) containing contradicting information to the public.

8 **THIRD CAUSE FOR DENIAL OF APPLICATION**

9 **(Description of Educational Programs)**

10 20. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A),
11 and California Code of Regulations, title 5, sections 71220, 71710, 71715, and 71720, in that
12 Respondent failed to provide sufficient descriptions of its educational programs. Each violation
13 is a sole and separate cause for denial. The violations are as follows:

14 a. Respondent is unable to prove compliance with California Code of Regulations, title
15 5, section 71710, in that Respondent's educational program, including some of the syllabi
16 submitted to the Bureau, does not reference any curriculum. Assigned textbook readings and a
17 final examination do not constitute comprehensive curriculum as required by California Code of
18 Regulations, title 5, section 71710.

19 b. Respondent is unable to prove compliance with California Code of Regulations, title
20 5, section 71220, in that Respondent failed to provide requested materials to the Bureau. As some
21 of Respondent's syllabi did not appear to reference any curriculum, the Bureau requested the
22 curriculum for each course being offered, but Respondent failed to provide the requested
23 materials.

24 c. Respondent is unable to prove compliance with California Code of Regulations, title
25 5, section 71710, subdivision (c), in that Respondent failed to provide syllabi for the following
26 courses: Homeopathy II, Animal Natural Health II, Aromatherapy Studies, Botanical Medicine
27 Level 100, and the Herbal Studies Course. Respondent therefore failed to provide course
28

1 materials designed or organized by duly qualified faculty as required by California Code of
2 Regulations, title 5, section 71710, subdivision (c).

3 d. Respondent is unable to prove compliance with California Code of Regulations, title
4 5, section 71720, subdivision (a)(6), in that Respondent claimed that it could not provide the
5 missing syllabi for Homeopathy II, Animal Natural Health II, Aromatherapy Studies, Botanical
6 Medicine Level 100, and the Herbal Studies Course, because the courses were "outsourced."
7 However, Respondent is required to maintain control of, and is responsible for, all academic
8 matters when contracting for educational services.

9 e. Respondent is unable to prove compliance with California Code of Regulations, title
10 5, section 71710, subdivision (e), in that Respondent failed to provide an explanation when
11 requested regarding how specific learning outcomes are tied to the sequence of the presentation of
12 the material to measure the students' learning of the material in all courses.

13 f. Respondent is unable to prove compliance with California Code of Regulations, title
14 5, section 71715, subdivision (d)(1), in that Respondent failed to provide an explanation, upon
15 request from the Bureau, of how the Blood & Urine Analysis course is appropriate for delivery
16 through distance education methods, as required by law.

17 g. Respondent is unable to prove compliance with California Code of Regulations, title
18 5, section 71715, subdivision (d)(5), in that Respondent failed to demonstrate that it is
19 maintaining clear standards for satisfactory academic progress, as none of Respondent's courses
20 included formative assessments or other objective feedback while students are still able to make
21 corrections and improvements. Instead, the final examination is the only instrument of evaluation
22 as provided for by Respondent.

23 h. Respondent is unable to prove compliance with California Code of Regulations, title
24 5, section 71715, subdivision (d)(6), in that Respondent failed to demonstrate that learning
25 objectives and outcomes are being evaluated by qualified faculty in a timely manner, as the final
26 examination is the only instrument of evaluation as provided for by Respondent.

27 i. Respondent is unable to prove compliance with California Code of Regulations, title
28 5, section 71710, subdivision (c)(6), in that not all of the syllabi provided to the Bureau included

1 a sequential and detailed outline of the subject matter to be addressed or a list of skills to be
2 learned and how those skills would be measured. When the Bureau requested updated syllabi,
3 Respondent failed to provide the requested materials.

4 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

5 **(Faculty)**

6 21. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A),
7 and California Code of Regulations, title 5, section 71720, in that Respondent failed to provide
8 sufficient documents, contracts, and responses regarding Respondent's faculty. Each violation is
9 a sole and separate cause for denial. The violations are as follows:

10 a. Respondent is unable to prove compliance with California Code of Regulations, title
11 5, section 71720, subdivision (a)(1), in that many of the contracts indicating instructor
12 assignments submitted to the Bureau were unsigned. When signed contracts from current faculty
13 regarding instructor assignments were requested by the Bureau, none were provided.

14 b. Respondent is unable to prove compliance with California Code of Regulations, title
15 5, section 71720, subdivisions (a)(1) and (a)(9). Respondent identified instructors and their
16 credentials in a document received by the Bureau on November 16, 2015. However, Respondent
17 then submitted an organizational chart, received by the Bureau on January 4, 2016, which
18 identified a substantially different list of instructors. Respondent did not explain the changes in
19 faculty, previously submitted credentials were in some cases incomplete and as a result the
20 Bureau cannot determine which list of instructors is correct and whether or not currently
21 employed instructors are qualified to teach the courses they have been assigned to.

22 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

23 **(School Catalog)**

24 22. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A),
25 Education Code section 94909, as well as California Code of Regulations, title 5, section 71810,
26 in that Respondent submitted a deficient school catalog to the Bureau. Each violation is a sole
27 and separate cause for denial. The violations are as follows:

1 a. Respondent is unable to prove compliance with California Code of Regulations, title
2 5, section 71810, subdivision (a), in that the school catalog provided to the Bureau on November
3 16, 2015, included references to programs beyond the Bachelor of Science degree in Natural
4 Health Sciences, which is the only program for which the institution is currently seeking
5 approval. The catalog states that programs including Doctor of Natural Medicine, Doctor of
6 Integrative Medicine, Doctor of Naturopathy, a Homeopathic diploma, and a Certificate of
7 Completion in Aromatherapy Specialty are available. When Respondent was asked for an
8 updated catalog which removes these references, Respondent failed to provide an updated catalog
9 to the Bureau.

10 b. Respondent is unable to prove compliance with Education Code section 94909,
11 subdivision (a)(7), in that the most recent organizational chart provided by Respondent, dated
12 January 4, 2016, indicates a list of faculty members that does not match the catalog or credentials
13 that were most recently provided to the Bureau on November 16, 2015.

14 c. Respondent is unable to prove compliance with Education Code section 94909,
15 subdivision (a)(1), in that the November 16, 2015, catalog provided to the Bureau references
16 unm.ca.org for contacts. This website does not match the web address listed on the original
17 application of universitynaturalmedicine.org.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

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

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 The University of Natural Medicine for an Approval to Operate an Institution Non-Accredited; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: 7/19/16



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

LA2016600871
52142369.doc