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

10
11 In the Matter of the Statement of Issues
Against:

Case No. 1002561

12 **VIP NURSING SCHOOL, INC.**
13 **16388 East 14th Street**
San Leandro CA 94578

STATEMENT OF ISSUES

14 **School Code No. 4102501**

15 Respondent.
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18 Complainant alleges:

19 **PARTIES**

20 1. Leeza Refredi (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Deputy Chief of the Bureau for Private Postsecondary Education, Department of
22 Consumer Affairs.

23 2. On or about December 30, 1997 the former Bureau for Private Postsecondary and
24 Vocational Education issued a full approval to operate to the VIP Nursing School, Inc.
25 (Respondent), a For-Profit Corporation, (School Code No. 4102501):

26 3. Respondent's approval to operate expired on June 17, 2013 and has not been
27 renewed.
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1 not satisfy the requirements to operate in California, that the institution is appealing the bureau's
2 decision, and that the loss of the appeal may result in the institution's closure.

3 “(3) If the bureau determines that the continued operation of the institution during the
4 appeal process poses a significant risk of harm to students, the bureau shall make an emergency
5 decision pursuant to its authority provided in Section 94938.”

6 6. Section 94909 of the Education Code states:

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

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

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

14 “(3) The following statements:

15 “(A) “Any questions a student may have regarding this catalog that have not been
16 satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary
17 Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and
18 fax numbers).”

19 “(B) “As a prospective student, you are encouraged to review this catalog prior to signing
20 an enrollment agreement. You are also encouraged to review the School Performance Fact Sheet,
21 which must be provided to you prior to signing an enrollment agreement.”

22 “(C) “A student or any member of the public may file a complaint about this institution
23 with the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or
24 by completing a complaint form, which can be obtained on the bureau's Internet Web site
25 (Internet Web site address).”

26 “(4) The address or addresses where class sessions will be held.

27 “(5) A description of the programs offered and a description of the instruction provided in
28 each of the courses offered by the institution, the requirements for completion of each program,

1 including required courses, any final tests or examinations, any required internships or
2 externships, and the total number of credit hours, clock hours, or other increments required for
3 completion.

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

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

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

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

16 “(B) Cancellation, withdrawal, and refund policies, including an explanation that the
17 student has the right to cancel the enrollment agreement and obtain a refund of charges paid
18 through attendance at the first class session, or the seventh day after enrollment, whichever is
19 later. The text shall also include a description of the procedures that a student is required to
20 follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund
21 consistent with the requirements of Article 13 (commencing with Section 94919).

22 “(C) Probation and dismissal policies.

23 “(D) Attendance policies.

24 “(E) Leave-of-absence policies.

25 “(9) The schedule of total charges for a period of attendance and an estimated schedule of
26 total charges for the entire educational program.

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1 (10) A statement reporting whether the institution participates in federal and state financial
2 aid programs, and if so, all consumer information that is required to be disclosed to the student
3 pursuant to the applicable federal and state financial aid programs.

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

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

14 “(13) If the institution provides placement services, a description of the nature and extent of
15 the placement services.

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

22 “(15) The following statement:

23 “NOTICE CONCERNING TRANSFERABILITY OF CREDITS AND CREDENTIALS
24 EARNED AT OUR INSTITUTION

25 “The transferability of credits you earn at (name of institution) is at the complete discretion
26 of an institution to which you may seek to transfer. Acceptance of the (degree, diploma, or
27 certificate) you earn in (name of educational program) is also at the complete discretion of the
28 institution to which you may seek to transfer. If the (credits or degree, diploma, or certificate) that

1 you earn at this institution are not accepted at the institution to which you seek to transfer, you
2 may be required to repeat some or all of your coursework at that institution. For this reason you
3 should make certain that your attendance at this institution will meet your educational goals. This
4 may include contacting an institution to which you may seek to transfer after attending (name of
5 institution) to determine if your (credits or degree, diploma, or certificate) will transfer.”

6 “(16) A statement specifying whether the institution, or any of its degree programs, are
7 accredited by an accrediting agency recognized by the United States Department of Education. If
8 the institution is unaccredited and offers an associate, baccalaureate, master's, or doctoral degree,
9 or is accredited and offers an unaccredited program for an associate, baccalaureate, master's, or
10 doctoral degree, the statement shall disclose the known limitations of the degree program,
11 including, but not limited to, all of the following:

12 “(A) Whether a graduate of the degree program will be eligible to sit for the applicable
13 licensure exam in California and other states or become certified or registered as required for the
14 applicable profession, occupation, trade, or career field in California.

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

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

20 “(b) If the institution has a general student brochure, the institution shall provide that
21 brochure to the prospective student prior to enrollment. In addition, if the institution has a
22 program-specific student brochure for the program in which the prospective student seeks to
23 enroll, the institution shall provide the program-specific student brochure to the prospective
24 student prior to enrollment.

25 “(c) An institution shall provide the school catalog to any person upon request. In addition,
26 if the institution has student brochures, the institution shall disclose the requested brochures to
27 any interested person upon request.

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1 “(d) An accredited institution is not required to provide a School Performance Fact Sheet to
2 a prospective student who is not a California resident, not residing in California at the time of his
3 or her enrollment, and enrolling in an accredited distance learning degree program offered by the
4 institution, if the institution complies with all federal laws, the applicable laws of the state where
5 the student is located, and other appropriate laws, including, but not limited to, consumer
6 protection and student disclosure requirements.”

7 7. Section **94811** of the Education Code states:

8 “Ability-to-benefit student” means a student who does not have a certificate of graduation
9 from a school providing secondary education, or a recognized equivalent of that certificate.

10 8. Section **94911** of the Education Code states:

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

12 “(a) The name of the institution and the name of the educational program, including the
13 total number of credit hours, clock hours, or other increment required to complete the educational
14 program.

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

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

22 “(d) A clear and conspicuous statement that the enrollment agreement is legally binding
23 when signed by the student and accepted by the institution.

24 “(e) (1) A disclosure with a clear and conspicuous caption, 'STUDENT'S RIGHT TO
25 CANCEL,' under which it is explained that the student has the right to cancel the enrollment
26 agreement and obtain a refund of charges paid through attendance at the first class session, or the
27 seventh day after enrollment, whichever is later.

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1 "(2) The disclosure shall contain the institution's refund policy and a statement that, if the
2 student has received federal student financial aid funds, the student is entitled to a refund of
3 moneys not paid from federal student financial aid program funds.

4 "(3) The text shall also include a description of the procedures that a student is required to
5 follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund.

6 "(f) A statement specifying that, if the student obtains a loan to pay for an educational
7 program, the student will have the responsibility to repay the full amount of the loan plus interest,
8 less the amount of any refund.

9 "(g) A statement specifying that, if the student is eligible for a loan guaranteed by the
10 federal or state government and the student defaults on the loan, both of the following may occur:

11 "(1) The federal or state government or a loan guarantee agency may take action against the
12 student, including applying any income tax refund to which the person is entitled to reduce the
13 balance owed on the loan.

14 "(2) The student may not be eligible for any other federal student financial aid at another
15 institution or other government assistance until the loan is repaid.

16 "(h) The transferability disclosure that is required to be included in the school catalog, as
17 specified in paragraph (15) of subdivision (a) of Section 94909.

18 "(i) (1) The following statement: "Prior to signing this enrollment agreement, you must be
19 given a catalog or brochure and a School Performance Fact Sheet, which you are encouraged to
20 review prior to signing this agreement. These documents contain important policies and
21 performance data for this institution. This institution is required to have you sign and date the
22 information included in the School Performance Fact Sheet relating to completion rates,
23 placement rates, license examination passage rates, salaries or wages, and the most recent three-
24 year cohort default rate, if applicable, prior to signing this agreement."

25 "(2) Immediately following the statement required by paragraph (1), a line for the student to
26 initial, including the following statement: "I certify that I have received the catalog, School
27 Performance Fact Sheet, and information regarding completion rates, placement rates, license
28 examination passage rates, salary or wage information, and the most recent three-year cohort

1 default rate, if applicable, included in the School Performance Fact sheet, and have signed,
2 initialed, and dated the information provided in the School Performance Fact Sheet.'

3 "(j) The following statements:

4 "(1) 'Any questions a student may have regarding this enrollment agreement that have not
5 been satisfactorily answered by the institution may be directed to the Bureau for Private
6 Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address),
7 (telephone and fax numbers).'

8 "(2) 'A student or any member of the public may file a complaint about this institution with
9 the Bureau for Private Postsecondary Education by calling (toll-free telephone number) or by
10 completing a complaint form, which can be obtained on the bureau's Internet Web site (Internet
11 Web site address).'

12 "(k) The following statement above the space for the student's signature: 'I understand that
13 this is a legally binding contract. My signature below certifies that I have read, understood, and
14 agreed to my rights and responsibilities, and that the institution's cancellation and refund policies
15 have been clearly explained to me.'"

16 9. Section **94913** of the Education Code states:

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

19 "(1) The school catalog.

20 "(2) A School Performance Fact Sheet for each educational program offered by the
21 institution.

22 "(3) Student brochures offered by the institution.

23 "(4) A link to the bureau's Internet Web site.

24 "(5) The institution's most recent annual report submitted to the bureau.

25 "(b) An institution shall include information concerning where students may access the
26 bureau's Internet Web site anywhere the institution identifies itself as being approved by the
27 bureau."

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations Title 5, section 71210, states:

3 “(a) The institution shall identify and describe the educational program it offers, or
4 proposes to offer. If the educational program is a degree program, the institution shall identify the
5 full title which it will place on each degree awarded.

6 “(b) In addition to the general title, such as “Bachelor of Arts” or “Master of Science,”
7 each degree title shall include the name of a specific major field of learning involved.

8 “(c) In addition, the institution shall list the following for each educational program
9 offered:

10 “(1) The admissions requirements, including minimum levels of prior education,
11 preparation, or training;

12 “(2) If applicable, information regarding the ability-to-benefit examination as required by
13 section 94904 of the Code;

14 “(3) The types and amount of general education required;

15 “(4) The title of the educational programs and other components of instruction offered,
16 including a description of the level of the courses (e.g., below college level, undergraduate level,
17 graduate level);

18 “(5) The method of instruction;

19 “(6) The graduation requirements; and

20 “(7) Whether the educational program is designed to fit or prepare students for
21 employment in any occupation. If so, the Form Application 94886 shall identify each occupation
22 and job title to which the institution represents the educational program will lead.”

23 11. California Code of Regulations Title 5, section 71475, states:

24 “(a) Unless renewed, an approval to operate shall expire at 12 midnight on the last day of
25 the institution's term of approval to operate as granted pursuant to section 94802 or section 94889
26 of the Code.

27 “(b) An institution seeking to renew its Approval to Operate pursuant to section 94891 of
28 the Code shall, prior to its expiration, complete and submit to the Bureau the “Application for

1 Renewal of Approval to Operate and Offer Educations Programs for Non-Accredited
2 Institutions,” Form Application 94891 (rev. 2/10).

3 “(c) The application for renewal of approval to operate and offer educational programs for
4 non-accredited institutions shall include all of the following:

5 “(1) The name, institution/school code and website address of the institution.

6 “(2) The physical address of the institution's primary administrative location in California.

7 “(3) The mailing address, identified either by physical address or by post office box
8 number, telephone number and fax number of the institution.

9 “(4) The physical address, phone number and fax number of each campus and branch at
10 which the educational programs will be offered, including the identification of the institution's
11 main location and branch locations.

12 “(5) The name, address, email address, telephone number, and fax number of an
13 individual who will function as the institution's contact person for the purposes of the application.

14 “(6) The form of business organization of the institution (e.g., sole proprietorship, general
15 or limited partnership, for-profit corporation, nonprofit corporation, or Limited Liability
16 Corporation). If the institution is incorporated, the institution shall also identify the state within
17 which the institution is incorporated and the date of incorporation, and provide copies of the
18 articles of incorporation and bylaws.

19 “(7) The name, title, address, email address, telephone number, nature of interest and
20 percentage of ownership of each person, as defined in section 94855 of the Code, who owns or
21 controls 25% or more of the stock or an interest in the institution and, to the extent applicable,
22 each general partner, officer, corporate director, member of the board of directors, and any other
23 person who exercises substantial control over the institution's management or policies. For the
24 purpose of this paragraph, a person exercises “substantial control over the institution's
25 management or policies” if the person has the authority to cause the institution to expend money
26 or incur debt in the amount of five thousand dollars (\$5,000) or more in any year.

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1 “(A) For each address required, the institution shall provide a physical home address, and
2 may request that the address, email address, and telephone number, of each person described in
3 paragraph (7) be maintained as personal information.

4 “(B) The federal employer identification number for partnerships or the social security
5 number for individual owners identified in the application pursuant to section 71130(a)(1).

6 “(d) In addition to the form required in (b), the institution shall submit all information
7 required by section 71100(b), and the appropriate renewal fee as provided in Sections
8 94930.5(b)(1) and 94930.5(b)(2) of the Code, as applicable, to the Bureau. Except for the
9 financial statements required by subdivision (e) of this section and the statement required in
10 subdivision (f) of this section, if the information required in order to renew its approval to operate
11 is substantially similar to the information submitted by the institution in its last renewal
12 application, or initial application if it is the first renewal, the institution may state that there are no
13 substantial changes.

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

18 “(f) The renewal application shall include a statement from any person identified in
19 subdivision (h)(1) of this section who -

20 “(1) Was found in any judicial or administrative proceeding to have violated the Act or the
21 law of any other state related to untrue or misleading advertising, the solicitation of prospective
22 students for enrollment in an educational service, or the operation of a postsecondary school;

23 “(2) Was denied any type of license on grounds set forth in Section 480 of the Business
24 and Professions Code;

25 “(3) Was adjudicated as responsible for the closure of an institution in which there were
26 unpaid liabilities to the state or federal government or any uncompensated pecuniary losses
27 suffered by students;

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1 “(4) Has stipulated to a judgment or administrative order or entered a consent decree
2 involving any of the matters described in this section.

3 “(5) Was convicted of any misdemeanor or felony as provided in Section 480(a)(1) of the
4 Business and Professions Code;

5 “(g) The institution shall furnish in the application an explanation of any legal action
6 pending against the institution or ownership or any of the institution's owners, officers, corporate
7 directors, administrators, or instructors by any federal, state, or local law enforcement agency
8 involving alleged acts of fraud, dishonesty, financial mismanagement, unpaid liabilities to any
9 governmental agency or claims for pecuniary loss suffered by any student.

10 “(h) The institution shall include in its application the name, title, physical address,
11 telephone number, fax number, and e-mail address for the agent for service of process in
12 California as required by section 94943.5 of the Code. The agent shall be at an address other than
13 the address of the institution or any branch. The agent must confirm the information and
14 acknowledge in writing that he or she is the designated agent for service of process. The
15 information shall be kept current pursuant to section 74190.

16 “(i) The institution shall include in its application an organization chart that shows the
17 governance and administrative structure of the institution and the relationship between faculty
18 and administrative positions. If there have been no substantive changes since the last submission
19 of an organizational chart, the institution may so state and is not required to submit
20 documentation.

21 “(j) The institution shall provide in the application a description of the job duties and
22 responsibilities of each administrative and faculty position. If there have been no substantive
23 changes since the last submission, the institution may so state and is not required to submit
24 documentation.

25 “(k) The institution shall identify in the application the chief executive officer, chief
26 operating officer, and chief academic officer and describe their education, experience, and
27 qualifications to perform their duties and responsibilities. If there have been no substantive
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1 changes since the last submission, the institution may so state and is not required to submit
2 documentation.

3 “(l) If the institution has a governing board, the application shall include the name, work
4 address, email address, and telephone number of each member of the governing board. If there
5 have been no substantive changes since the last submission, the institution may so state and is not
6 required to submit documentation.

7 “(m) The application shall contain the name, work address, email address, fax number and
8 telephone number of the person with whom the Bureau will correspond and conduct legal
9 transactions on behalf of the institution. If there have been no substantive changes since the last
10 submission, the institution may so state and is not required to submit documentation.

11 “(n) The institution shall describe in the application, in detail its mission and objectives. If
12 there have been no substantive changes since the last submission, the institution may so state and
13 is not required to submit documentation.

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

16 “(p) If an institution receives financial aid because its students qualify for it under any
17 state or federal financial aid program, the application shall include a statement of its policies,
18 practices, and disclosures regarding financial aid. If there have been no substantive changes since
19 the last submission, the institution may so state and is not required to submit documentation.

20 “(q) The institution shall include in its application copies of advertising and other
21 statements disseminated to the public in any manner by the institution or its representatives that
22 concern, describe, or represent each of the following:

23 “(1) The institution.

24 “(2) Each educational program offered by the institution.

25 “(3) If advertising is broadcast by television or radio, the application shall also include a
26 copy of the script.

27 “(r) The institution shall identify and describe, in the application, the educational program
28 it offers, or proposes to offer. If the educational program is a degree program, the institution shall

1 identify the full title which it will place on each degree awarded. If there have been no substantive
2 changes since the last submission, the institution may so state and is not required to submit
3 documentation.

4 “(s) The application shall include, in addition to the general title, such as “Bachelor of
5 Arts” or “Master of Science”, the name of a specific major field of learning involved. If there
6 have been no substantive changes since the last submission, the institution may so state and is not
7 required to submit documentation.

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

12 “(1) The admissions requirements, including minimum levels of prior education,
13 preparation, or training;

14 “(2) If applicable, information regarding the ability-to-benefit examination as required by
15 section 94904 of the Code.

16 “(3) The types and amount of general education required;

17 “(4) The title of the educational programs and other components of instruction offered,
18 including a description of the level of the courses (e.g., below college level, undergraduate level,
19 graduate level);

20 “(5) The mode of instruction;

21 “(6) The graduation requirements.

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

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

3 “(1) A description of the educational program.

4 “(2) A description of the equipment to be used during the educational program.

5 “(3) A description of the number and qualifications of the faculty needed to teach the
6 educational program.

7 “(4) A projection, and the bases for the projection, of the number of students that the
8 institution plans to enroll in the educational program during each of the three years following the
9 date the application was submitted.

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

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

15 “(7) Upon request, the institution shall provide to the Bureau copies of the curriculum or
16 syllabi required pursuant to section 71710.

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

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

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

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

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

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

4 “(x) The application shall include a statement that the institution has contracted with
5 sufficient duly qualified faculty members who meet the qualifications of section 71720 unless
6 there have been no substantive changes since the last submission. If there have been no
7 substantive changes made the institution may so state and is not required to provide
8 documentation.

9 “(y)(1) For each program offered, the application shall contain a description of the
10 facilities and the equipment which is available for use by students at the main, branch, and
11 satellite locations of the institution unless there have been no substantive changes since the last
12 submission. If there have been no substantive changes made the institution may so state and is not
13 required to provide documentation.

14 “(2) For facilities that are leased or rented, the application shall contain the name and
15 address of the lessor or landlord, together with a copy of any use, lease, or rental agreements for
16 the facilities unless there have been no substantive changes since the last submission. If there
17 have been no substantive changes made the institution may so state and is not required to provide
18 documentation.

19 “(3) The application shall include, in addition to the description of the physical facilities,
20 building diagrams or campus maps to assist the Bureau in locating these facilities. The diagrams
21 or maps shall identify the location of classrooms, laboratories, workshops, and libraries unless
22 there have been no substantive changes since the last submission. If there have been no
23 substantive changes made the institution may so state and is not required to provide
24 documentation.

25 “(4) The description in the application shall include specifications of significant
26 equipment that demonstrate that the equipment meets the standards prescribed by the Code and
27 this chapter and is sufficient to enable students to achieve the educational objectives of each
28 education program unless there have been no substantive changes since the last submission. If

1 there have been no substantive changes made the institution may so state and is not required to
2 provide documentation.

3 “(5) For each item of significant equipment, the description in the application shall
4 indicate whether the equipment is owned, leased, rented, or licensed for short- or long-term, or
5 owned by another and loaned to be used without charge unless there have been no substantive
6 changes since the last submission. If there have been no substantive changes made the institution
7 may so state and is not required to provide documentation.

8 “(6) The application shall contain a list of all permits, certifications, or other evidence of
9 inspections or authorizations to operate required by the jurisdictions within which the institution
10 operates that the institution has obtained, and/or an explanation as to why those permits,
11 certifications, or inspections have not yet been obtained unless there have been no substantive
12 changes since the last submission. If there have been no substantive changes made the institution
13 may so state and is not required to provide documentation.

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

23 “(aa) If an institution represents to the public, in any manner, that it offers job placement
24 assistance, the application shall include a description of the job placement assistance that it
25 provides unless there have been no substantive changes since the last submission. If there have
26 been no substantive changes made the institution may so state and is not required to provide
27 documentation.

28

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

4 “(cc) The institution shall submit with the application, a copy of the document that is
5 awarded to a graduating student upon successful completion of each educational program unless
6 there have been no substantive changes since the last submission. If there have been no
7 substantive changes made the institution may so state and is not required to provide
8 documentation.

9 “(dd)(1) The application shall contain a description of how records required by Article 9
10 of the Act or this chapter are or will be organized and maintained, the types of documents
11 contained in student files, how the records are stored, and whether academic and financial records
12 are maintained in separate files. The description shall include a statement of the institution's
13 procedures for security and safekeeping of records unless there have been no substantive changes
14 since the last submission. If there have been no substantive changes made the institution may so
15 state and is not required to provide documentation.

16 “(2) The description in the application shall include the name, physical address, email
17 address, and telephone number of the custodian of records, and the physical addresses and
18 telephone numbers of the offices or buildings where the records will be maintained unless there
19 have been no substantive changes since the last submission. If there have been no substantive
20 changes made the institution may so state and is not required to provide documentation.

21 “(ee) The application shall contain a description of the procedures used by the institution
22 to assure that it is maintained and operated in compliance with the Act and this Division.

23 “(ff)(1) The institution shall include in the application any material facts as defined by
24 section 71340, which have not otherwise been disclosed in the application that might reasonably
25 affect the Bureau's decision to grant an approval to operate. In this context, a fact would be
26 “material” if it would change the Bureau's decision concerning the institution's ability to comply
27 with any applicable provisions of the Act.

28

1 “(2) The institution may also include in the application any other facts which the
2 institution would like the Bureau to consider in deciding whether to grant an approval to operate.

3 “(3) For the purposes of this section, a fact is “material” if, without its inclusion into the
4 application, the information contained in the application would be false, misleading, or
5 incomplete.

6 “(gg) The institution demonstrates its continued capacity to meet the minimum operating
7 standards by submitting the renewal application signed and dated, and each fact stated therein and
8 each attachment thereto declared to be true under penalty of perjury, as follows:

9 “(1) Signatories:

10 “(A) Each owner of the institution, or

11 “(B) If the institution is incorporated, the chief executive officer of the corporation and
12 each person who owns or controls 25 percent or more of the stock or interest in the institution, or

13 “(C) Each member of the governing body of a nonprofit corporation.

14 “(2) The declaration shall be in the following form:

15 “I declare under penalty of perjury under the laws of the State of California that the
16 foregoing and all attachments are true and correct.

17 _____
18 (Date)

19 _____
20 (Signature)”

21 “(hh) In addition to the fees required by subdivision (d) of this section:

22 “(1) An application for renewal that is received by the Bureau more than 30 days after the
23 expiration of the approval to operate shall be submitted with the 25 percent late payment penalty
24 fee required by section 94931(a) of the Code.

25 “(2) An application for renewal that is received by the Bureau more than 90 days after the
26 expiration of the approval to operate shall be submitted with the 35 percent late payment penalty
27 fee required by section 94931(b) of the Code.

28

1 “(i) Provided that a complete renewal application is received by the Bureau prior to the
2 expiration of the approval, a valid approval to operate shall continue until the Bureau has acted
3 upon the renewal application.

4 “(jj) An approval to operate that has expired may be renewed at any time within 6 months
5 after its expiration on filing of an application for renewal and, as a condition precedent to
6 renewal, payment of all accrued and unpaid renewal fees, late payment penalty fees prescribed in
7 subdivision (e) of this section, and any other fees that would have been due in order to renew
8 timely. After an approval to operate has expired for more than 6 months, the approval is
9 automatically cancelled and the institution must submit a complete application pursuant to section
10 71100, meet all current requirements, and pay all fees that would have been due in order to timely
11 renew, in order to apply for approval.

12 “(kk) An incomplete application filed under this section will render the institution
13 ineligible for renewal.”

14 12. California Code of Regulations Title 5, section 71770, states:

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

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

23 ...”

24 13. California Code of Regulations Title 5, section 71800, states:

25 “In addition to the requirements of section 94911 of the Code, an institution shall provide to
26 each student an enrollment agreement that contains at the least the following information:

27 “(a) The name and address of the institution and the addresses where instruction will be
28 provided.

1 “(b) Period covered by the enrollment agreement.
2 “(c) Program start date and scheduled completion date.
3 “(d) Date by which the student must exercise his or her right to cancel or withdraw, and the
4 refund policy, including any alternative method of calculation if approved by the Bureau pursuant
5 to section 94921 of the Code.

6 “(e) Itemization of all institutional charges and fees including, as applicable:

7 “(1) tuition;

8 “(2) registration fee (non-refundable);

9 “(3) equipment;

10 “(4) lab supplies or kits;

11 “(5) Textbooks, or other learning media;

12 “(6) uniforms or other special protective clothing;

13 “(7) in-resident housing;

14 “(8) tutoring;

15 “(9) assessment fees for transfer of credits;

16 “(10) fees to transfer credits;

17 “(11) Student Tuition Recovery Fund fee (non-refundable);

18 “(12) any other institutional charge or fee.

19 “(f) Charges paid to an entity other than an institution that is specifically required for
20 participation in the educational program.”

21 14. California Code of Regulations Title 5, section **71810**, states:

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

28

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

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

5 “(2) A statement of the institution's missions and purposes and the objectives underlying
6 each of its educational programs;

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

9 “(4) Language proficiency information, including: (A) the level of English language
10 proficiency required of students and the kind of documentation of proficiency, such as the Test of
11 English as a Foreign Language (TOEFL), that will be accepted; and (B) whether English
12 language services, including instruction such as ESL, are provided and, if so, the nature of the
13 service and its cost;

14 “(5) Whether any instruction will occur in a language other than English and, if so, the
15 level of proficiency required and the kind of documentation of proficiency, such as the United
16 States Foreign Service Language Rating System, that will be accepted;

17 “(6) The institution's policies and practices regarding any form of financial aid, including
18 all consumer information which the institution is required to disclose to the student under any
19 state or federal financial aid program;

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

23 “(8) The institution's standards for student achievement;

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

26 “(10) A description of library and other learning resources and the procedures for student
27 access to those resources;

28

1 “(11) If the institution offers distance education, the approximate number of days that will
2 elapse between the institution's receipt of student lessons, projects, or dissertations and the
3 institution's mailing of its response or evaluation.

4 “(12) A description of all student services;

5 “(13) Housing information including all of the following:

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

7 “(B) The availability of housing located reasonably near the institution's facilities and an
8 estimation of the approximate cost or range of cost of the housing; and

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

12 “(14) Policies on student rights, including the procedure for addressing student
13 grievances; and

14 “(15) Policies on the retention of student records.”

15 15. California Code of Regulations Title 5, section 74115, states:

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

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

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

25 “(2) Financial statements prepared on an annual basis as required by section 74110(b) shall
26 be prepared in accordance with the generally accepted accounting principles established by the
27 American Institute of Certified Public Accountants. Nonprofit institutions shall provide annual
28

1 financial statements as required under generally accepted accounting principles for nonprofit
2 organizations.

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

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

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

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

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

19 16. California Code of Regulations Title 5, section 74117, states:

20 “In addition to the requirement in Section 94913(b) of the Code, an institution that
21 maintains a website shall provide on the homepage of that website clear and conspicuous links to
22 all the items required in Section 94913(a) of the Code.”

23 **FIRST CAUSE FOR DENIAL OF APPLICATION**

24 (Incomplete/Nonconforming Home Health Aid Enrollment Agreement)

25 17. Respondent's application is subject to denial under California Education Code Section
26 94891 in that Respondent's Home Health Aid Enrollment Agreement failed to comply with
27 applicable Codes and Regulations as follows:

28

1 a. The Home Health Aid Enrollment Agreement did not include a period covered by the
2 enrollment agreement in violation of California Code of Regulations Title 5, section 71800(b).

3 b. Page 3 of the Home Health Aid Enrollment Agreement included the date by which
4 the student must exercise his or her right to cancel or withdraw; however, the statement does not
5 include the verbiage required by California Code of Regulations Title 5, sections 71800(d).
6 Specifically, the statement indicates the student will obtain a refund of charges paid through
7 attendance at the First (1st) class session, or on the 2nd Day for Day Class, or 5th Day for Eve
8 Class after the enrollment, whichever is later. In order to be compliant, the statement must contain
9 the following verbiage, "Institutions shall refund 100 percent of the amount paid for institutional
10 charges, if notice of cancellation is made through the attendance at the first class session, or the
11 seventh day after enrollment, whichever is later."

12 c. The Home Health Aid Enrollment Agreement included a list of scheduled total
13 charges on page 4, however the list did not include the student's obligation to the Student Tuition
14 Recovery Fund (STRF) nor did the Enrollment Agreement clearly identify the STRF as a
15 nonrefundable charge in violation of Code section 94911 (b).

16 d. The Home Health Aid Enrollment Agreement did not include in underline capital
17 letters on the same page as the students signature, Total charges for the current period of
18 attendance, Estimated total charges for the entire education program, and the Total charges the
19 student is obligated to pay upon enrollment. The Agreement violates section 94911(c) of the
20 Code.

21 e. The Home Health Aid Enrollment Agreement included the Notice Concerning
22 Transferability of Credits and Credentials Earned At Our Institution on page 2. However, the
23 notice does not exhibit the required verbiage. Specifically, the last sentence of the paragraph
24 states "If the institution offers more than one educational program, only the program in which the
25 student is enrolling must be listed." In order for this statement to be compliant the last sentence
26 must be removed from the Notice. The Agreement violates sections 94911(h) and 94909(a)(15) of
27 the Code.

28

1 f. The Home Health Aid Enrollment Agreement included a statement on page 1
2 directing students to the Bureau for unanswered questions on page 2; however, the statement does
3 not exhibit the required verbiage. Specifically, the Enrollment Agreement states, "Any questions
4 or problems you may have regarding the catalogs that have not been satisfactory answered by the
5 VIP School, you may direct to." In order to be compliant the Home Health Aid Enrollment
6 Agreement must include the following statement, "Any questions a student may have regarding
7 this enrollment agreement that have not been satisfactorily answered by the institution may be
8 directed to the Bureau for Private Postsecondary Education." The Agreement violates section
9 94911(j)(1) of the Code.

10 g. Page 5 of the Home Health Aid Enrollment Agreement included a statement that prior
11 to signing the Enrollment Agreement you must be given a catalog or brochure and a School
12 Performance Fact Sheet. However, the statement provided does not exhibit the required verbiage.
13 Specifically, the statement did not include "licensing examination passage rates", "and the most
14 recent three-year cohort default rate, if applicable." The Agreement violates section 94911(i)(1)
15 of the Code.

16 h. The Home Health Aid Enrollment Agreement included a statement required by
17 section 94911(i)(2) of the Code on page 5. However; the statement does not exhibit the required
18 verbiage. Specifically, the statement did not include "and the most recent three-year cohort
19 default rate, if applicable." The Agreement violates section 94911(i)(2) of the Code.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 (Incomplete/Nonconforming Nursing Assistant Enrollment Agreement)

22 18. Respondent's application is subject to denial under California Education Code Section
23 94891 in that that Respondent's Nursing Assistant Enrollment Agreement did not conform to
24 applicable Codes and regulations as follows:

25 a. The Nursing Assistant Enrollment Agreement did not include a period covered by the
26 Enrollment Agreement in violation of California Code of Regulations Title 5, section 71800(b).

27 b. The Nursing Assistant Program Enrollment Agreement included a list of scheduled
28 total charges on page 5; however, the list did not include the student's obligation to the Student

1 Tuition Recovery Fund nor did the Enrollment Agreement clearly identify the STRF as a
2 nonrefundable charge in violation of Code section 94911(b).

3 c. The Nursing Assistant Program Enrollment Agreement did not include in underlined
4 capital letters on the same page as the students signature, total charges for the current period of
5 attendance, estimated total charges for the entire education program, and the total charges the
6 student is obligated to pay upon enrollment. The Agreement violates section 94911(c) of the
7 Code.

8 d. The Nursing Assistant Program Enrollment Agreement did not include a statement
9 regarding the federal or state government or a loan guarantee agency may take action against the
10 student, including applying any income tax refund to which the person is entitled to reduce the
11 balance owed on the loan. The Agreement violates section 94911(g)(1) of the Code.

12 e. The Nursing Assistant Program Enrollment Agreement did not include a statement
13 that the student may not be eligible for any federal student financial aid at another institution or
14 other government financial assistance until the loan is repaid. The Agreement violates section
15 94911(g)(2) of the Code.

16 f. The Nursing Assistant Program Enrollment Agreement included a statement on page
17 1 directing students to the Bureau for unanswered questions; however, the statement does not
18 exhibit the required verbiage. Specifically, the Enrollment Agreement states "Any questions or
19 problems you may have regarding the catalogs that have not been satisfactory answered by the
20 VIP School, you may direct to." In order to be compliant the Nursing Assistant Program
21 Enrollment Agreement must include the following statement, "Any questions a student may have
22 regarding this enrollment agreement that have not been satisfactorily answered by the institution
23 may be directed to the Bureau for Private Postsecondary Education." The Agreement violates
24 section 94911(j)(1) of the Code

25 **THIRD CAUSE FOR DENIAL OF APPLICATION**

26 (Financial Resources)

27 19. Respondent's application is subject to denial under California Education Code Section
28 94891 in conjunction with California Code of Regulations, Title 5, section 74115, subsections

1 (b); California Code of Regulations, Title 5, section 71475(e) and (kk). Respondent provided a
2 Profit and Loss statement for January through August 2013. However, these financial documents
3 were neither audited nor reviewed by a licensed certified public accountant. As such the
4 application is incomplete.

5 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

6 (Incomplete Student Catalog)

7 20. Respondent's application is subject to denial under California Education Code section
8 94891 in that that Respondent's Student Catalog did not conform to applicable Codes and
9 regulations as follows:

10 a. The Catalog did not include the address or addresses where class sessions will be
11 held. This is a violation of section 94909(a)(4) of the Code.

12 b. The Catalog did not include a statement specifying whether the institution has a
13 pending petition in bankruptcy, is operating as a debtor in possession, has filed a petition within
14 the preceding five years, or has a petition in bankruptcy filed against it within the preceding five
15 years that resulted in reorganization under Chapter 11 of the United States Bankruptcy Code. The
16 Catalog violates section 94909(a)(12) of the Code.

17 c. The Catalog included a statement on page 2 directing students to the Bureau for
18 unanswered questions; however, the statement does not exhibit the required verbiage.
19 Specifically, the Enrollment Agreement states "Any questions or problems you may have
20 regarding the catalogs that have not been satisfactory answered by the VIP School, you may
21 direct to." In order to be compliant the Catalog must include the following statement, "Any
22 questions a student may have regarding this enrollment agreement that have not been
23 satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary
24 Education." This Catalog violates section 94909(a)(3)(A) of the Code.

25 d. The Catalog included the Notice Concerning Transferability of Credits and
26 Credentials Earned At Our Institution on page 2 and 3; however, the notice does not exhibit the
27 required verbiage. Specifically the last sentence of the paragraph states "If the institution offers
28 more than one educational program, only the program in which the student is enrolling must be

1 listed." In order for this statement to be compliant the last sentence must be removed from the
2 Notice. The catalog violates section 94909(a)(15) of the Code.

3 e. The Catalog did not include a statement specifying whether visa services are provided
4 or whether the institution will vouch for student status, and any associated charges. The Catalog
5 violates California Code of Regulations Title 5, section 71810(b)(3) of the Code.

6 f. The Catalog did not include the schedule of total charges for a period of attendance
7 and an estimated schedule of total charges for the entire educational program. The Catalog
8 violates section 94909(a)(9) of the Code.

9 g. The Catalog did not include the statement, if a student obtains a loan to pay for an
10 educational program, the student will have to repay the full amount of the loan plus interest, less
11 the amount of any refund, and that, if the student receives federal student financial aid funds, the
12 student is entitled to a refund of the money's not paid from federal financial aid funds. The
13 Catalog violates section 94909(a)(11) of the Code.

14 h. Pages 18 and 19 of the Catalog included a statement on the institution's policies and
15 practices regarding any form of financial aid; however, the statement did not include the required
16 disclosures on State financial aid. The Catalog violates California Code of Regulations Title 5,
17 section 71810(b)(6).

18 i. The Catalog did not include housing information to include whether the institution
19 has dormitory facilities under its control. The Catalog violates California Code of Regulations
20 Title 5, section 71810(b)(13)(A).

21 j. The Catalog did not include housing information, including the availability of
22 housing located reasonably near the institutions facilities and an estimation of the approximate
23 cost or range of the cost of such housing. The Catalog violates California Code of Regulations
24 Title 5, section 71810(b)(13)(B).

25 k. The Catalog did not include a clear and conspicuous statement indicating whether the
26 institution has a responsibility to find or assist a student in finding housing, The Catalog violates
27 California Code of Regulations Title 5, section 71810(b)(13)(C).

28

1 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

2 (Website Violations)

3 21. Respondent's application is subject to denial under California Education Code section
4 94891 in that that Respondent's website is not complaint with California Code of Regulations
5 Title 5, section 74117. While the website has all of the items required by Section 94913,
6 subsection (a), of the code, those items are not found on the homepage of the website as required
7 by California Code of Regulations Title 5, section 74117.

8 **PRAYER**

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

- 12 1. Denying the application of VIP NURSING SCHOOL, INC.;
- 13 2. Taking such other and further action as deemed necessary and proper.

14

15 DATED: 10/16/2017



16 LEEZA REFREDI
17 Deputy Bureau Chief
18 Bureau for Private Postsecondary Education
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

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