

Bureau for Private Postsecondary Education

**FINAL STATEMENT OF REASONS**

Hearing Date: September 8, 2015

Subject Matter of Proposed Regulations: Accreditation of Degree Granting Institutions

Section Affected: Title 5, Division 7.5, California Code of Regulations, Sections 70000, 71105, 71105.5, 71400, 71410, 71471, 71650, 71775, 71775.5, 74240, 74250, 75140, and 75150.

Updated Information

The Initial Statement of Reasons is included in this file. No updates have been made to that information.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

The Bureau has determined that the proposed regulations would not affect small business because the requirement of being accredited is in statute, not the regulations. The regulations merely provide clarity and guidance for reaching the statutory requirement.

Consideration of Alternatives

No reasonable alternative which was considered or that was otherwise identified and brought to the attention of the bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Objections or Recommendations/Responses

The following comments and recommendations were made regarding the proposed action:

Summary of Comments Received During 45-day Public Comment Period

COMMENT NO. 1.1: Robin S. Cohen, Ph.D. and Veronica Abney, Ph.D. with Institution of Contemporary Psychoanalysis stated that the overall timeline in which currently approved schools must obtain accreditation is too narrow. The commenters place the burden of the timeline on the Bureau's regulations and state that WASC (Western Association of Schools and

Colleges) is altering the expected course of accreditation and imposing a “rushed timeline” because of the narrowness of the timeline to obtain accreditation.

Response: The Bureau disagrees with this comment. The accreditation requirement and related required timelines for a currently approved program to obtain accreditation was established by the Legislature in Education Code sections 94885 and 94885.1. The Bureau’s regulations are merely implementing this statute.

COMMENT NO. 1.2: Robin S. Cohen, Ph.D. and Veronica Abney, Ph.D. also stated that the “way the regulation is written” extends its scope to the Institute of Contemporary Psychoanalysis and that the institution should be exempt from the accreditation requirement created by SB 1247 even though it confers degrees. The commenters provide several reasons for their position including the following: the admissions criteria (“proof of terminal degree in particular discipline and licensure prior to admission”); “status as a non-profit institution”; that it “does not receive any federal or state funding”; that it only offers “extensive education in our discipline, and our discipline alone”; that “our standards require that the PsyD or PhD project be of a quality worthy of publication in a psychoanalytic journal”; that it “helps mental health professionals receive advanced training and supervision that develops and deepens their clinical capacities”; and “practices are also currently monitored by Bureau and other continuing educational bodies.”

Response: The Bureau disagrees with this comment. SB 1247 requires that an institution offering a degree must be accredited or have a Bureau approved accreditation plan that leads to accreditation within the required timeframes (see, Education Code section 94885). The statute does not provide for any exceptions. It is the statute that mandates accreditation for degree granting institutions, not the regulations or how they are written.

COMMENT NO. 2.1: Juan C. Yñiguez with the Association for Private Postsecondary Education in California (APPEC) stated that he supported the intent of the regulation to empanel visiting committees, but felt “the proposed regulation leaves open the possibility of abuse and thus requires greater clarity.” Specifically, he stated that criteria should be specified to trigger when an institution should be subject to visiting committee review, “[o]therwise, empaneling a visiting committee could be a capricious rather than warranted exercise.” He also stated that the regulations should include language regarding the composition of the visiting committee that is similar to that set forth in California Code of Regulations section 71450(2).

Response: The Bureau disagrees with this comment. The Bureau’s regulations do not require visiting committees be empaneled. This requirement was established by Education Code sections 94885.1(c)(2) and 94885.5(b)(2). The statute mandates a visiting committee review for every institution that is subject to the accreditation requirement. The Bureau’s regulations are merely implementing this statute. The statute also states that the visiting committee must be empaneled pursuant to 94882 and the regulations (71471) provide that an institution may challenge the visiting committee.

COMMENT NO. 2.2: Juan C. Yñiguez also stated that institutions that stop pursuing accreditation should be allowed to teach their students to the completion of the degree program. While the commenter cites a section number which is actually the required disclosure to be given

to students (71775.5), the comment clearly is in reference to another section of the proposed regulations regarding the process to be followed if an institution elects to stop pursuing accreditation (74240).

Response: The Bureau disagrees with this comment. This would be inconsistent with the intent of the statute. The statute requires degree granting programs to be accredited. It provides two provisions for programs to operate while pursuing accreditation: one for those already in operation and another for schools seeking approval of a new degree program. Only degree programs which are actively pursuing the required accreditation are allowed to operate. Any that miss a statutory deadline are automatically suspended pursuant to Education Code sections 94885.1(d) and 94885.5(c). See, also, Education Code 94886 (approval to operate required to conduct business). The intent of the statute is that only institutions with accredited degree programs and those actively pursuing accreditation are to be operating (i.e., enrolling new students and teaching classes in those programs). Furthermore, if institutions were allowed to teach-out their own students after electing to stop pursuing accreditation, they could continue operating and teaching classes for up to four years for a bachelor degree, and as much as seven years for some doctorate programs. This would allow programs not pursuing accreditation to operate beyond the five years allotted to obtain accreditation by the statute. This is inconsistent with the meaning and intent of the statute.

COMMENT NO. 3: Robert C. Fellmouth, Ed Howard, Angela Perry, and Robert Shireman asserted that the provisions of sections 74240 and 74250 (related to student notice and planning when an unaccredited degree granting program elects to stop pursuing accreditation or is automatically suspended) pertain to not only unaccredited programs, but accredited programs with existing degree programs as well. The commenters provided amended language to include accredited institutions with existing degree programs to these regulations.

Response: The Bureau disagrees with this comment. It would be inconsistent with the purpose and subject of these regulations, as well as the statute. These regulations are to clarify, make specific, and provide necessary guidance for the new statutory requirement that all unaccredited degree granting programs must be accredited. There is no statutory authority to add already accredited institutions to these regulations. Neither the Notice nor the Initial Statement of reasons reference programs which are already accredited. Furthermore, adding accredited institutions to section 74250 would be confusing. The section deals with the automatic suspension required by statute. This suspension is for failing to meet specific deadlines towards obtaining accreditation. An institution that is already accredited cannot miss these statutory deadlines and therefore would not be subject to automatic suspension pursuant to section 94885.1 or 94885.5 of the Code.

#### Comments received at the Public Hearing on September 8, 2015

COMMENT NO. 4: Steve Arthur provided written information from which his comments were based (see, VI. Public Hearing: Recording and Materials). The written information consists of a chart labeled “SB 1247 Economic Effect on the California Economy” which includes his fiscal numbers based on simple projections for the cost of becoming accredited. The written information also includes highlighting from the Notice of Proposed Changes (Notice) related to

the Fiscal Impact Estimates and the Results of Economic Impact Assessment/Analysis. Mr. Arthur stated that those sections in the Notice did not accurately reflect the fiscal impact associated with the regulations, which he stated would be great. He further articulated the negative side effects of the loss of his and other similar mental health institutions on the State of California based on how many patients are treated by their graduates if the schools cannot afford the cost of becoming accredited.

Response: The Bureau disagrees with this comment. As stated in the Notice, the Bureau's regulations are not requiring the accreditation for degree granting institutions. The requirement and the cost of meeting the requirement were established by the Legislature in Education Code sections 94885, 94885.1, and 94885.5. The Bureau's regulations are merely implementing this statute.

COMMENT NO. 5: Cristina Versari reiterated Mr. Arthur's comments regarding the fiscal cost of becoming accredited and the cost in jobs if institutions such as those she represents are forced to close. She also provided her estimates of the fiscal cost of accreditation for her institution as well as the number of jobs lost if her institution is closed because of the fiscal cost involved in obtaining and remaining accredited.

Response: The Bureau disagrees with this comment. As with the previous comment, the Bureau's regulations are not requiring the accreditation for degree granting institutions. The requirement and the cost of meeting the requirement were established by the Legislature in Education Code sections 94885, 94885.1, and 94885.5. The Bureau's regulations are merely implementing this statute.