



APPEAL OF CITATION INFORMAL CONFERENCE
DECISION: CITATION MODIFIED

September 27, 2019

David Floyer, Owner
 DiaNova Institute
 1998 Pacific Avenue, Suite 305
 San Francisco, CA 94109

| Date of Issuance | Citation Number | Institution Code |
|--------------------|-----------------|------------------|
| September 27, 2019 | 1819212 | Unapproved |

On July 25, 2019, an informal telephone conference was held in the matter of Citation: Assessment of Fine and Order of Abatement No. 1819212 (Citation) against David Floyer, Owner of DiaNova Institute (Institution). In attendance were Yvette Johnson, Administrative Chief and David Floyer, Owner.

Pursuant to Business and Professions Code, section 148; California Education Code (CEC), section 94944; and Title 5 of California Code of Regulations (5, CCR), section 75020 and section 75040, the Bureau for Private Postsecondary Education (Bureau) renders the following decision relative to your appeal of the Citation No. 1819212.

It is the decision of the Yvette Johnson, Administrative Chief that on August 28, 2019, Citation No. 1819212 is modified and makes the following change(s):

VIOLATION CODE SECTIONS

| # | Below you will find the California Education Code (CEC) and/or Title 5 of the California Code of Regulations (5, CCR code) section(s) of law you are charged with violating. |
|----|---|
| 1. | <p><u>Violation:</u> CEC Section 94886. Approval to Operate Required <i>“Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.”</i></p> <p>CEC Section 94817.5. Approved to Operate or Approved <i>“Approved to operate” or “approved” means that an institution has received authorization pursuant to this chapter to offer to the public and to provide postsecondary educational programs.”</i></p> <p>CEC Section 94868. To Offer to the Public <i>“To offer to the public” means to advertise, publicize, solicit, or recruit.”</i></p> <p>CEC Section 94869. To Operate <i>“To operate” means to establish, keep, or maintain any facility or location in this state where, or from</i></p> |

which, or through which, postsecondary educational programs are provided.”

As of June 4, 2019, the Institution’s website includes a Catalog, dated September 24, 2018 to September 20, 2019. On page 32 of the Catalog the following is offered: Health and Intimacy Studies Certificate Program, at a cost of \$6,869.00. On page 58 of the Catalog, the following program is offered: Clinical Health and Intimate Studies Certificate Program at a cost of \$8,369.00.

The Institution offers individual courses that are under \$2,500, however, the total cost of the Institution’s educational programs exceeds the \$2,500 threshold for meeting an exemption under CEC section 94874(f).

The Institution is operating and advertising its Institution and educational programs in violation of CEC section 94886.

Order of Abatement: Order of Abatement:

The Bureau orders that the Institution cease to operate as a private postsecondary educational institution, unless the Institution qualifies for an exemption under CEC section 94874. The Institution must discontinue recruiting or enrolling students and cease all instructional services and advertising in any form or type of media, including <http://www.dianovainstitute.org/>, and any other websites not identified here that are associated with the Institution, until an approval to operate is obtained from the Bureau. The Institution must disconnect all telephone service numbers including, but not limited to, (650) 960-1094, that are associated with the Institution until an approval to operate is obtained from the Bureau. To comply with the Order of Abatement the Institution must submit a school closure plan to the Bureau pursuant to California Education Code section 94926. The Institution must provide a roster of each student currently enrolled at the Institution. The roster must include the names of the students, their contact information (including phone number, email address, and physical address), the programs in which they are enrolled, the amount paid for the programs.

Reason for modification: New substantive facts were presented at the conference. The Order of Abatement has been satisfied.

Fine Amount: The fine for this violation is \$100,000.00

The administrative fine for this violation has been modified from \$100,000.00 to \$1,000.00.

TOTAL MODIFIED ADMINISTRATIVE FINE DUE: \$1,000.00

PENALTY – ASSESSMENT OF A FINE

Payment of the administrative fine is due within 30 days from the date of this decision. Please complete the Payment of Fine form. Payment must be made to the Bureau by check, or money order. Please include the citation number on the payment of the fine assessment. Payment of the administrative fine shall not constitute an admission of the violation(s) charged and shall be represented as satisfactory resolution of the matter for purposes of public disclosure. Payments may be mailed to:

Cheryl Lardizabal, Discipline Citation Program
Bureau for Private Postsecondary Education
2535 Capitol Oaks Drive, Suite 400
Sacramento, CA 95833

APPEAL OF CITATION

You *do not* have the right to request another Informal Conference to appeal this modified Citation. You *do*, however, have the right to appeal this affirmed or modified Citation through an Administrative Hearing. A hearing before an Administrative Law Judge will be scheduled and you will be notified of the hearing date. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If you do not wish to appeal this modified Citation you must withdraw your initial request for an Administrative Hearing. Please complete and mail the enclosed Withdrawal – Request for Administrative Hearing within **30 Days** of the date of this decision.

EFFECTIVE DATE OF CITATION AND FINE ASSESSMENT

This modified Citation is effective on September 27, 2019. The payment is due by **October 27, 2019**.

Failure to pay the administrative fine within the time allowed is grounds for denial of an application for an approval to operate or discipline. The Bureau will promptly take all appropriate action to enforce the Modified Citation and recover the civil penalties prescribed therein or found to be due after a hearing.

CONTACT INFORMATION

If you have any questions regarding this decision or desire further information, please contact Cheryl Lardizabal, Citation Analyst, at (916) 621-2591 or at Cheryl.Lardizabal@dca.ca.gov.

Signature on file

Christina Villanueva
Discipline Manager

Date

Enclosures

- Payment of Fine – Waiver of Appeal Rights
- Withdrawal- Request for Administrative Hearing
- Declaration of Service by Certified and First-Class Mail