

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

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 Accusation Against:

Case No. 999788

12 **ADVANCED PRO NURSING INSTITUTE**
13 **2505 Technology Drive**
14 **Hayward, CA 94545**

A C C U S A T I O N

15 **Institution Code No. 88680341**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On the following dates, the Bureau for Private Postsecondary Education issued an
23 approval to operate the following programs to Advanced Pro Nursing Institute (Respondent).

24

25 Approved Program Name	Approval Date
26 Nursing Assistant	12/20/2004
27 Vocational Nursing Program	2/14/2006

28

1 Home Health Aide	10/10/2012
2 Massage Therapy Program A	10/10/2012
3 Massage Therapy Program B	10/10/2012
4 Medical Assisting	10/10/2012

5 3. Respondent's approval to operate was in full force and effect at all times relevant to
6 the charges brought herein and will expire on October 9, 2017, unless renewed.

7 **JURISDICTION**

8 4. This Accusation is brought before the Director of the Department of Consumer
9 Affairs (Director) for the Bureau for Private Postsecondary Education (Bureau), under the
10 authority of the following laws.

11 5. Section 118, subdivision (b) of the Business and Professions Code provides that the
12 suspension, expiration, surrender, or cancellation of a license shall not deprive the Bureau of
13 jurisdiction to proceed with a disciplinary action during the period within which the license may
14 be renewed, restored, reissued or reinstated.

15 **STATUTORY PROVISIONS**

16 6. Section 94893 of the Education Code states: "If an institution intends to make a
17 substantive change to its approval to operate, the institution shall receive prior authorization from
18 the bureau. Except as provided in subdivision (a) of Section 94896, if the institution makes the
19 substantive change without prior bureau authorization, the institution's approval to operate may
20 be suspended or revoked."

21 7. Section 94894 of the Education Code states, in pertinent part:

22 "The following changes to an approval to operate are considered substantive changes and
23 require prior authorization:

24 "(a) A change in educational objectives, including an addition of a new diploma or a degree
25 educational program unrelated to the approved educational programs offered by the institution.

26 ..."

27 8. Section 94897 of the Education Code states, in pertinent part:

28 "An institution shall not do any of the following:

1 ...

2 “(k) Willfully falsify, destroy, or conceal any document of record while that document of
3 record is required to be maintained by this chapter.

4 ...

5 “(p) Offer an associate, baccalaureate, master’s, or doctoral degree without disclosing to
6 prospective students prior to enrollment whether the institution or the degree program is
7 unaccredited and any known limitation of the degree, including, but not limited to, all of the
8 following:

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

11 ...”

12 9. Section 94898 of the Education Code states, in pertinent part:

13 “(b) After a student has enrolled in an educational program, the institution shall not do
14 either of the following:

15 “(1) Make any unscheduled suspension of any class unless caused by circumstances beyond
16 the institution’s control.

17 ...”

18 10. Section 94899 of the Education Code states:

19 “If an institution offers an educational program in a profession, occupation, trade, or career
20 field that requires licensure in this state, the institution shall have an educational program
21 approval from the appropriate state licensing agency to conduct that educational program in order
22 that a student who completes the educational program, except as provided in Section 94905, is
23 eligible to sit for any required licensure examination.”

24 11. Section 94900 of the Education Code states, in pertinent part:

25 “(b) An institution shall maintain, for each student granted a degree or certificate by that
26 institution, permanent records of all of the following:

27 ...

28 “(3) The grades earned by the student in each of those courses.”

1 12. Section 94900.5 of the Education Code states, in pertinent part:

2 “An institution shall maintain, for a period of not less than five years, at its principal place
3 of business in this state, complete and accurate records of all of the following information:

4 ...

5 “(b) The names and addresses of the members of the institution’s faculty and records of the
6 educational qualifications of each member of the faculty.

7 ...”

8 13. Section 94902 of the Education Code states, in pertinent part:

9 “(a) A student shall enroll solely by means of executing an enrollment agreement. The
10 enrollment agreement shall be signed by the student and by an authorized employee of the
11 institution.

12 ...

13 “(c) A student shall receive a copy of the signed enrollment agreement, in writing or
14 electronically, regardless of whether total charges are paid by the student.”

15 14. Section 94905, subdivision (a) of the Education Code states:

16 “During the enrollment process, an institution offering educational programs designed to
17 lead to positions in a profession, occupation, trade, or career field requiring licensure in this state
18 shall exercise reasonable care to determine if the student will not be eligible to obtain licensure in
19 the profession, occupation, trade, or career field at the time of the student’s graduation The
20 institution shall not execute an enrollment agreement with a student that is known to be ineligible
21 for licensure, unless the student’s stated objective is other than licensure.”

22 15. Section 94910 of the Education Code states, in pertinent part:

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

27 ...”

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1 16. Section 94913 of the Education Code states, in pertinent part:

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

4 ...

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

7 “(3) Student brochures offered by the institution.

8 “(4) A link to the bureau’s Internet Web site.

9 “(5) The institution’s most recent annual report submitted to the bureau.

10 ...”

11 17. Section 94927 of the Education Code states:

12 “An institution shall be considered in default of the enrollment agreement when an
13 educational program is discontinued or canceled or the institution closes prior to completion of
14 the educational program. When an institution is in default, student institutional charges may be
15 refunded on a pro rata basis if the bureau determines that the school has made provision for
16 students enrolled at the time of default to complete a comparable educational program at another
17 institution at no additional charge to the students beyond the amount of the total charges in the
18 original enrollment agreement. If the institution does not make that provision, a total refund of all
19 institutional charges shall be made to students.”

20 18. Section 94937 of the Education Code states, in pertinent part:

21 “(a) As a consequence of an investigation, and upon a finding that an institution has
22 committed a violation, the bureau may place an institution on probation or may suspend or revoke
23 an institution’s approval to operate for:

24 ...

25 “(2) A material violation or repeated violations of this chapter or regulations adopted
26 pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph,
27 ‘material violation’ includes, but is not limited to, misrepresentation, fraud in the inducement of a

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1 contract, and false or misleading claims or advertising, upon which a student reasonably relied in
2 executing an enrollment agreement and that resulted in harm to the student.

3 ...”

4 **REGULATORY PROVISIONS**

5 19. California Code of Regulations, title 5, section 71750, subdivision (a) states: “Every
6 institution shall make refunds that are no less than the refunds required under the Act and this
7 Division.”

8 20. California Code of Regulations, title 5, section 71800 states, in pertinent part:

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

11 ...

12 “(b) Period covered by the enrollment agreement.

13 “(c) Program start date and scheduled completion date.

14 ...

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

16 “(1) tuition;

17 ...”

18 21. California Code of Regulations, title 5, section 71920 states, in pertinent part:

19 “(a) The institution shall maintain a file for each student who enrolls in the institution
20 whether or not the student completes the educational service.

21 “(b) In addition to the requirements of section 94900, the file shall contain all of the
22 following pertinent student records:

23 “(1) Written records and transcripts of any formal education or training, testing, or
24 experience that are relevant to the student’s qualifications for admission to the institution or the
25 institution’s award of credit or acceptance of transfer credits including the following:

26 “(A) Verification of high school completion or equivalency or other documentation
27 establishing the student’s ability to do college level work, such as successful completion of an
28 ability-to-benefit test;

1 “(B) Records documenting units of credit earned at other institutions that have been
2 accepted and applied by the institution as transfer credits toward the student’s completion of an
3 educational program;

4 “(C) Grades or findings from any examination of academic ability or educational
5 achievement used for admission or college placement purposes;

6 “(D) All of the documents evidencing a student’s prior experiential learning upon which the
7 institution and the faculty base the award of any credit;

8 ...

9 “(5) In addition to the requirements of section 94900(b) of the Code, a transcript showing
10 all of the following:

11 “(A) The courses or other educational programs that were completed, or were attempted but
12 not completed, and the dates of completion or withdrawal;

13 “(B) Credit awarded for prior experiential learning, including the course title for which
14 credit was awarded and the amount of credit;

15 “(C) Credit for courses earned at other institutions;

16 “(D) Credit based on any examination of academic ability or educational achievement used
17 for admission or college placement purposes;

18 “(E) The name, address, website address, and telephone number of the institution.

19 ...

20 “(9) A document showing the total amount of money received from or on behalf of the
21 student and the date or dates on which the money was received.

22 ...”

23 22. California Code of Regulations, title 5, section 71930, subdivision (e) states: “All
24 records that the institution is required to maintain by the Act or this chapter shall be made
25 immediately available by the institution for inspection and copying during normal business hours
26 by the Bureau and any entity authorized to conduct investigations.”

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1 23. California Code of Regulations, title 5, section 74200 states: "Every institution shall
2 notify the Bureau in writing at least 30 days before the institution ceases to offer to the public any
3 educational program."

4 **COSTS**

5 24. Business and Professions Code section 125.3 provides, in pertinent part, that the
6 Board may request the administrative law judge to direct a licentiate found to have committed a
7 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
8 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the
9 license to not being renewed or reinstated. If a case settles, recovery of investigation and
10 enforcement costs may be included in a stipulated settlement.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Making a Substantive Change Without Prior Bureau Authorization)**

13 25. Respondent's approval to operate is subject to disciplinary action under Education
14 Code sections 94893, 94894, subdivision (a), and 94937, subdivision (a)(2) in that Respondent
15 made a substantive change to its approval to operate without obtaining prior Bureau
16 authorization. The circumstances of this conduct are as follows:

17 a. Respondent operated a Bachelor of Science in Nursing program without obtaining
18 Bureau approval or authorization.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Willfully Falsify a Document of Record)**

21 26. Respondent's approval to operate is subject to disciplinary action under Education
22 Code sections 94897, subdivision (k) and 94937, subdivision (a)(2) in that Respondent willfully
23 falsified documents of record. The circumstances of this conduct are as follows:

24 a. On or about January 14, 2015, Respondent submitted copies of enrollment
25 agreements in which Respondent had changed the name of the institution from Advanced Pro
26 Nursing Institute to XinXiang University.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Disclose Limitations of Degree Program)

27. Respondent's approval to operate is subject to disciplinary action under Education Code sections 94897, subdivision (p)(1) and 94937, subdivision (a)(2) in that Respondent offered a baccalaureate degree program in nursing without disclosing to prospective students prior to enrollment that that degree program was unaccredited and the limitations of the degree, including that a graduate of the degree program would not be eligible to sit for the applicable licensure exam in California and other states.

FOURTH CAUSE FOR DISCIPLINE

(Making an Unscheduled Suspension of a Class)

28. Respondent's approval to operate is subject to disciplinary action under Education Code sections 94898, subdivision (b)(1) and 94937, subdivision (a)(2) in that Respondent made an unscheduled suspension of a class. The circumstances of this conduct are as follows:

a. In or around April 2013, Respondent cancelled its Vocational Nursing Program.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Have Educational Program Approval from State Licensing Agency)

29. Respondent's approval to operate is subject to disciplinary action under Education Code sections 94899 and 94937, subdivision (a)(2) in that Respondent offered a Bachelor of Science in Nursing program without obtaining an educational program approval from the Board of Registered Nursing to conduct that nursing program.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Student Grades)

30. Respondent's approval to operate is subject to disciplinary action under Education Code sections 94900, subdivision (b)(3) and 94937, subdivision (a)(2) in that Respondent failed to maintain grades for certain students.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Faculty Records)**

3 31. Respondent's approval to operate is subject to disciplinary action under Education
4 Code sections 94900.5, subdivision (b) and 94937, subdivision (a)(2) in that Respondent failed to
5 maintain at its principal place of business complete and accurate records of Respondent's faculty,
6 including records of the educational qualifications of each member of the faculty.

7 **EIGHTH CAUSE FOR DISCIPLINE**

8 **(Failure to Sign Enrollment Agreements)**

9 32. Respondent's approval to operate is subject to disciplinary action under Education
10 Code sections 94902, subdivision (a) and 94937, subdivision (a)(2) in that many of Respondent's
11 enrollment agreements were not signed by students and one of Respondent's authorized
12 employees.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Failure to Provide Students with Copy of Signed Enrollment Agreements)**

15 33. Respondent's approval to operate is subject to disciplinary action under Education
16 Code sections 94902, subdivision (c) and 94937, subdivision (a)(2) in that Respondent failed to
17 provide at least one student with a copy of a signed enrollment agreement.

18 **TENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Exercise Reasonable Care in Determining Student Eligibility to Obtain**
20 **Licensure)**

21 34. Respondent's approval to operate is subject to disciplinary action under Education
22 Code sections 94905, subdivision (a) and 94937, subdivision (a)(2) in that Respondent, during the
23 enrollment process, failed to exercise reasonable care to determine if students in Respondent's
24 Bachelor of Science in Nursing program would be eligible to obtain licensure as registered
25 nurses. The circumstances of this conduct are as follows:

26 a. Because Respondent's Bachelor of Science in Nursing program is not approved by
27 the Board of Registered Nursing, Respondent knew that the students who enrolled in that program
28 would not be eligible to obtain licensure as registered nurses.

1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Prospective Students with a School Performance Fact Sheet)**

3 35. Respondent's approval to operate is subject to disciplinary action under Education
4 Code sections 94910 and 94937, subdivision (a)(2) in that Respondent failed to provide
5 prospective students with a School Performance Fact Sheet.

6 **TWELFTH CAUSE FOR DISCIPLINE**

7 **(Failure to Maintain Adequate Internet Website)**

8 36. Respondent's approval to operate is subject to disciplinary action under Education
9 Code sections 94913, subdivisions (a)(2)-(a)(5) and 94937, subdivision (a)(2) in that Respondent
10 failed to provide the following items on its website: a School Performance Fact Sheet for each
11 educational program Respondent offers; student brochures; a link to the Bureau's Internet Web
12 site; and Respondent's most recent annual report submitted to the Bureau.

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Refund Institutional Charges)**

15 37. Respondent's approval to operate is subject to disciplinary action under Education
16 Code sections 94927 and 94937, subdivision (a)(2), and California Code of Regulations, title 5,
17 section 71750, subdivision (a) in that Respondent, after defaulting on its enrollment agreement for
18 Respondent's Vocational Nursing Program in or around April 2013, failed to provide certain
19 students with a total refund of all institutional charges.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Provide Students with Complete Enrollment Agreement)**

22 38. Respondent's approval to operate is subject to disciplinary action under California
23 Code of Regulations, title 5, section 71800 and Education Code section 94937, subdivision (a)(2)
24 in that the enrollment agreements Respondent provided certain students do not contain certain
25 required information, including the period covered by the enrollment agreement, the program
26 start date and scheduled completion date, and an itemization of all institutional charges and fees.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Student Records)**

3 39. Respondent's approval to operate is subject to disciplinary action under California
4 Code of Regulations, title 5, section 71920 and Education Code section 94937, subdivision (a)(2),
5 in that Respondent failed to maintain files for certain students that contained the student records
6 required by California Code of Regulations, title 5, section 71920, subdivisions (b)(1)(A)-
7 (b)(1)(D), (b)(5)(A)-(b)(5)(E), and (b)(9).

8 **SIXTEENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Make Records Available for Inspection and Copying)**

10 40. Respondent's approval to operate is subject to disciplinary action under California
11 Code of Regulations, title 5, section 71930, subdivision (e) and Education Code section 94937,
12 subdivision (a)(2) in that on or about December 3, 2014 and January 8, 2015, Respondent failed
13 to make students records immediately available for inspection and copying by Bureau
14 representatives.

15 **SEVENTEENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Notify Bureau Prior to Closure of Educational Program)**

17 41. Respondent's approval to operate is subject to disciplinary action under California
18 Code of Regulations, title 5, section 74200 and Education Code section 94937, subdivision (a)(2)
19 in that Respondent failed to notify the Bureau in writing at least 30 days before Respondent
20 ceased to offer to the public its Vocational Nursing Program.

21 **PRAYER**

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

25 1. Revoking or suspending School Approval Institution Number 88680341 issued to
26 Advanced Pro Nursing Institute;

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2. Ordering Advanced Pro Nursing Institute to pay the Bureau for Private Postsecondary Education the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 9/28/15



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

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