1	KAMALA D. HARRIS						
2	Attorney General of California JOSHUA A. ROOM Supervising Deputy Attorney General NICHOLAS TSUKAMAKI Deputy Attorney General State Bar No. 253959 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004						
3							
4							
5							
6	Telephone: (415) 703-1188 Facsimile: (415) 703-5480						
7	E-mail: Nicholas.Tsukamaki@doj.ca.gov Attorneys for Complainant						
8	BEFORE THE  DEPARTMENT OF CONSUMER AFFAIRS  FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION  STATE OF CALIFORNIA						
9							
10	STATE OF	ALIFORNIA					
11	To the Defeater of the American American	Com No. 000799	· ·				
12	In the Matter of the Accusation Against:	Case No. 999788					
13	ADVANCED PRO NURSING INSTITUTE 2505 Technology Drive	ACCUSATION					
14	Hayward, CA 94545	ACCUSATION					
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 a						
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	Vocational Nursing Program 2/14/2006					
28							
	Į						

(ADVANCED PRO NURSING INSTITUTE) ACCUSATION

Home Health Aide	10/10/2012
Massage Therapy Program A	10/10/2012
Massage Therapy Program B	10/10/2012
Medical Assisting	10/10/2012

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

### **JURISDICTION**

- 4. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau for Private Postsecondary Education (Bureau), under the authority of the following laws.
- 5. Section 118, subdivision (b) of the Business and Professions Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

### STATUTORY PROVISIONS

- 6. Section 94893 of the Education Code states: "If an institution intends to make a substantive change to its approval to operate, the institution shall receive prior authorization from the bureau. Except as provided in subdivision (a) of Section 94896, if the institution makes the substantive change without prior bureau authorization, the institution's approval to operate may be suspended or revoked."
  - 7. Section 94894 of the Education Code states, in pertinent part:
- "The following changes to an approval to operate are considered substantive changes and require prior authorization:
- "(a) A change in educational objectives, including an addition of a new diploma or a degree educational program unrelated to the approved educational programs offered by the institution.
- | , , , , ,

- 8. Section 94897 of the Education Code states, in pertinent part:
- "An institution shall not do any of the following:

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

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

. . .

"(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.

. . . ;;

- 13. Section 94902 of the Education Code states, in pertinent part:
- "(a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

. .

- "(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student."
  - 14. Section 94905, subdivision (a) of the Education Code states:

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

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

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

| ///

27

28

III

l <b>6.</b>	Section	94913 of	the	Education	Code states,	in	pertinent	part:

"(a) An institution that maintains an Internet Web site shall provide on that Internet Web

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

- "(3) Student brochures offered by the institution.
- "(4) A link to the bureau's Internet Web site.
- "(5) The institution's most recent annual report submitted to the bureau.

## Section 94927 of the Education Code states:

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

- 18. Section 94937 of the Education Code states, in pertinent part:
- "(a) As a consequence of an investigation, and upon a finding that an institution has committed a violation, the bureau may place an institution on probation or may suspend or revoke an institution's approval to operate for:
- "(2) A material violation or repeated violations of this chapter or regulations adopted pursuant to this chapter that have resulted in harm to students. For purposes of this paragraph, 'material violation' includes, but is not limited to, misrepresentation, fraud in the inducement of a

### SEVENTH CAUSE FOR DISCIPLINE

## (Failure to Maintain Faculty Records)

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

### EIGHTH CAUSE FOR DISCIPLINE

## (Failure to Sign Enrollment Agreements)

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

### NINTH CAUSE FOR DISCIPLINE

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

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

### TENTH CAUSE FOR DISCIPLINE

# (Failure to Exercise Reasonable Care in Determining Student Eligibility to Obtain Licensure)

- 34. Respondent's approval to operate is subject to disciplinary action under Education Code sections 94905, subdivision (a) and 94937, subdivision (a)(2) in that Respondent, during the enrollment process, failed to exercise reasonable care to determine if students in Respondent's Bachelor of Science in Nursing program would be eligible to obtain licensure as registered nurses. The circumstances of this conduct are as follows:
- a. Because Respondent's Bachelor of Science in Nursing program is not approved by the Board of Registered Nursing, Respondent knew that the students who enrolled in that program would not be eligible to obtain licensure as registered nurses.

#### **ELEVENTH CAUSE FOR DISCIPLINE**

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

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

## TWELFTH CAUSE FOR DISCIPLINE

# (Failure to Maintain Adequate Internet Website)

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

## THIRTEENTH CAUSE FOR DISCIPLINE

## (Failure to Refund Institutional Charges)

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

### FOURTEENTH CAUSE FOR DISCIPLINE

## (Failure to Provide Students with Complete Enrollment Agreement)

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

27 | ///

///

III

1	2. Ordering Advanced Pro Nursing Institute to pay the Bureau for Private Postsecondary				
2	Education the reasonable costs of the investigation and enforcement of this case pursuant to				
3	Business and Professions Code section 125.3;				
4	3. Taking such other and further action as deemed necessary and proper.				
5					
6	DATED: 928 15  JOANNE WENZEL				
7	Chief Bureau for Private Postsecondary Education				
8	Department of Consumer Affairs State of California				
9	Complainant				
10	SF2015401267				
11	41362790.doc				
12					
13					
14					
15					
16					
17					
18 19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
	13				