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8

9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Statement of Issues
Against:

Case No. 1006591

14
15 **ANDAMAN INSTITUTE OF MASSAGE**

STATEMENT OF ISSUES

16 **Institution School Code No. 58745852**

17 Respondent.

18
19 **PARTIES**

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

23 2. On or about December 11, 2015, the Bureau approved a Massage Therapist Program
24 under Approval to Operate number 58745852 for Andaman Institute of Massage (Respondent).
25 Respondent is owned by Relax Zone Thai Massage & Spa, LLC (Relax Zone). Suporn Billups is
26 listed as the Chief Executive Officer of Respondent Relax Zone in the records of the California
27 Secretary of State, effective June 12, 2019. Rodney Billups is listed as a manager or member of
28 Respondent Relax Zone in the records of the California Secretary of State, effective June 12,

1 2019. Respondent's Approval to Operate expired on December 10, 2020. However, prior to the
2 expiration of the Institution's Approval to Operate, the Institution submitted a Renewal
3 Application that is currently pending review with the Bureau's Licensing Unit.

4 3. On or about April 23, 2018, the Bureau approved a Holistic Health Practitioner
5 Program under Approval to Operate number 58745852 for Respondent.

6 4. On or about May 19, 2020, the Bureau received an Application for Significant
7 Change in Method of Instructional Delivery (application number 33312) from the Respondent.

8 On or about May 13, 2020, Rodney Billups, in lieu of Respondent Suporn Billups, certified under
9 penalty of perjury to the truthfulness of all statements, answers, and representations in the
10 Application. The Bureau denied the Application on September 28, 2020.

11 **JURISDICTION**

12 5. This Statement of Issues is brought before the Director of the Department of
13 Consumer Affairs (Director) for the Bureau for Private Postsecondary Education, under the
14 authority of the following laws. All section references are to the Education Code unless
15 otherwise indicated.

16 6. Education Code (Code) section 94837 states:

17 "Educational program" means a planned sequence composed of a single course or module,
18 or set of related courses or modules, that provides education, training, skills, or experience,
or a combination of these.

19 7. Code section 94885 states:

20 (a) The bureau shall adopt by regulation minimum operating standards for an institution
21 that shall reasonably ensure that all of the following occur:

22 (1) The content of each educational program can achieve its stated objective.

23 (2) The institution maintains specific written standards for student admissions for each
24 educational program and those standards are related to the particular educational program.

25 (3) The facilities, instructional equipment, and materials are sufficient to enable students to
26 achieve the educational program's goals.

27 (4) The institution maintains a withdrawal policy and provides refunds.

28 (5) The directors, administrators, and faculty are properly qualified.

1 (6) The institution is financially sound and capable of fulfilling its commitments to
2 students.

3 (7) That, upon satisfactory completion of an educational program, the institution gives
4 students a document signifying the degree or diploma awarded.

5 (8) Adequate records and standard transcripts are maintained and are available to students.

6 (9) The institution is maintained and operated in compliance with this chapter and all other
7 applicable ordinances and laws.

8 ...

9 8. Code section 94891 states in pertinent part:

10 ...

11 (c)(1) An institution that is denied renewal of an approval to operate may file an appeal in
12 accordance with the procedures established by the bureau pursuant to Section 94888.

13 (2) An institution that has filed an appeal of a denial of a renewal application may continue
14 to operate during the appeal process, but must disclose in a written statement, approved by
15 the bureau, to all current and prospective students, that the institution's application for
16 renewal of approval to operate was denied by the bureau because the bureau determined the
17 application did not satisfy the requirements to operate in California, that the institution is
18 appealing the bureau's decision, and that the loss of the appeal may result in the institution's
19 closure.

18 9. Code section 94893 states:

19 If an institution intends to make a substantive change to its approval to operate, the
20 institution shall receive prior authorization from the bureau. Except as provided in
21 subdivision (a) of Section 94896, if the institution makes the substantive change without
22 prior bureau authorization, the institution's approval to operate may be suspended or
23 revoked.

24 ...

24 **STATUTORY PROVISIONS**

25 10. Code section 94905 states:

26 (a) During the enrollment process, an institution offering educational programs designed to
27 lead to positions in a profession, occupation, trade, or career field requiring licensure in this
28 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

1 graduation and shall provide all students enrolled in those programs with a written copy of
2 the requirements for licensure established by the state, including any applicable course
3 requirements established by the state. If the minimum course requirements of the institution
4 exceed the minimum requirements for state licensure, the institution shall disclose this
information, including a list of those courses that are not required for state licensure. 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.

5 (b) During the enrollment process, an institution may discuss internships and student jobs
6 available to the student during the student's attendance at the institution. If the institution
7 discusses internships and student jobs, the institution shall disclose the number of requests
8 for internship and student job placement assistance received by the institution during the
immediately preceding calendar year and the number of actual placements during that year.

9 (c) During the enrollment process, an institution offering educational programs designed to
10 lead to positions in a profession, occupation, trade, or career field where voluntary licensure
11 by a government agency is available, shall provide its students seeking to enroll in those
12 programs with a written copy of the requirements for that voluntary licensure.

13 11. Section 94932 of the Code states:

14 The bureau shall determine an institution's compliance with the requirements of
15 this chapter. The bureau shall have the power to require reports that institutions shall
16 file with the bureau in addition to the annual report, to send staff to an institution's
17 sites, and to require documents and responses from an institution to monitor
18 compliance. When the bureau has reason to believe that an institution may be out of
19 compliance, it shall conduct an investigation of the institution. If the bureau
20 determines, after completing an investigation, that an institution has violated any
21 applicable law or regulation, the bureau shall take appropriate action pursuant to this
22 article.

23 **REGULATORY PROVISIONS**

24 12. Title 5, California Code of Regulations (CCR), section 71600 (Regulation 71600)
25 states in part:

26 (a) An institution seeking to make a significant change in its method of instructional
27 delivery shall complete the "Significant Change in Method of Instructional Delivery"
28 form (INS rev. 2/10) to obtain prior authorization. For the purposes of this section a
"significant change in instructional delivery" is any change that alters the way
students interact with faculty or access significant equipment. The form shall be
submitted to the Bureau along with the appropriate fee as provided in Section
94930.5(c) of the Code. For an institution approved under section 94885 of the Code,
it shall be signed and dated by the signatory(ies) required by section 71380, and for
an institution approved under section 94890 of the Code, it shall be signed and dated
by the signatory(ies) required by section 71390, and each fact stated therein and each
attachment thereto shall be declared to be true under penalty of perjury, in the
following form:

///

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

3 _____

4 _____

5 (Date)

6 (Signature)”

7 (b) The application shall establish that the institution, if making a significant change
8 in its method of instructional delivery, can meet the minimum operating standards
9 contained in Chapter 3, and shall include:

10 (1) The name, school code, address, and telephone and fax numbers of the institution;

11 (2) A description of the proposed new method of instructional delivery, and how the
12 curriculum will be changed or adapted to meet the change in delivery method;

13 (3) A detailed explanation of the reasons for the proposed change;

14 (4) A description of how the change affects students, administration, and the
15 institution’s financial resources;

16 (5) If the proposed change will result in any significant changes in existing faculty,
17 facilities, library or learning resources, the institution shall provide the applicable
18 information required by Section 71250 through 71270, inclusive;

19 (6) A description of how the institution will phase in the new method of instructional
20 delivery;

21 (7) The name, address, email address, and telephone and fax numbers of the
22 institution’s contact person for the purpose of this application; and

23 (8) Any additional information required by the Bureau pursuant to section 71340.

24 ...

25 13. Title 5, California Code of Regulations (CCR), section 71380 (Regulation 71380)

26 states:

27 (a) The Form Application 94886 shall be signed and dated, and each fact stated
28 therein and each attachment thereto shall be declared to be true under penalty of
perjury, as follows:

(1) By each owner of the institution, or

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

(3) By each member of the governing body of a nonprofit corporation.

1 (b) The declaration shall be in the following form:

2 "I declare under penalty of perjury under the laws of the State of California that the
3 foregoing and all attachments are true and correct.

4 _____
5 _____

6 (Date)

7 (Signature)"

8 13. Title 5, California Code of Regulations (CCR), section 71655 (Regulation 71655)
9 states:

10 ...

11 (b) An incomplete application filed under this Article will render it ineligible for
12 processing, or subject to denial.

13 ...

14 (d) In addition to the grounds stated in subdivisions (a) and (b) of this section, the Bureau
15 may deny an application on the following grounds:

16 (1) failure to establish that the proposed change will meet the institutional operating
17 standards set forth in Chapter 3 of this Division; or

18 ...

19 14. Title 5, California Code of Regulations (CCR), section 71710 (Regulation 71710)
20 states in part:

21 In order to meet its mission and objectives, the educational program defined in section
22 94837 of the Code shall be comprised of a curriculum that includes:

23 ...

24 (e) specific learning outcomes tied to the sequence of the presentation of the material to
25 measure the students' learning of the material; and

26 (f) evaluation by duly qualified faculty of those learning outcomes.

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1 15. Title 5, CCR, section 71715 (Regulation 71715) states in part:

2 ...

3 (b) The institution shall document that the instruction offered leads to the achievement of
4 the learning objectives of each course.

5 ...

6 (d) Distance education as defined in section 94834 of the Code, does not require the
7 physical presence of students and faculty at the same location but provides for interaction
8 between students and faculty by such means as telecommunication, correspondence,
9 electronic and computer augmented educational services, postal service, and facsimile
10 transmission. In addition to the other requirements of this chapter and the Act, an institution
11 offering distance education shall:

12 (1) ensure that the educational program offered through distance education is appropriate
13 for delivery through distance education methods;

14 (2) assess each student, prior to admission, in order to determine whether each student has
15 the skills and competencies to succeed in a distance education environment;

16 (3) ensure that the materials and programs are current, well organized, designed by faculty
17 competent in distance education techniques and delivered using readily available, reliable
18 technology;

19 (4) provide for meaningful interaction with faculty who are qualified to teach using distance
20 education methods;

21 ...

22 (6) timely complete student evaluations of learning outcomes by duly qualified faculty,
23 which are appropriate for use with the distance education methods used, and evaluated by
24 duly qualified faculty.

25 ...

26 16. Title 5, CCR, section 71720 (Regulation 71720) states in part:

27 ...

28 (b) Instructors in an Educational Program Not Leading to a Degree.

(1) An institution shall employ instructors who possess the academic, experiential and
professional qualifications to teach, including a minimum of three years of
experience, education and training in current practices of the subject area they are
teaching. If an instructor does not possess the required three years of experience,
education and training in the subject area they are teaching, the institution shall
document the qualifications the instructor possesses that are equivalent to the
minimum qualifications.

1 (2) Each instructor shall maintain their knowledge by completing continuing
2 education courses in his or her subject area, classroom management or other courses
3 related to teaching.

4 (3) The institution shall not employ or continue to employ an instructor who was
5 adjudicated in a judicial or administrative proceeding as having violated any
6 provision of the Act or this chapter, or as having committed any act that would
7 constitute grounds for the denial of a license under Section 480 of the Business and
8 Professions Code.

9 17. Title 5, CCR, section 71735 (Regulation 71735) states in part:

10 (a) An institution shall have sufficient facilities and necessary equipment to support the
11 achievement of the educational objectives of all of the courses and educational programs in
12 which students are enrolled. If an institution represents that the educational service will fit
13 or prepare a student for employment in a particular occupation or as described in particular
14 job titles, either of the following conditions shall be met:

15 (1) The equipment used for instruction or provided to the student shall be comparable in
16 model type or features to equipment generally used in those occupations or job titles at the
17 time the instruction is offered.

18 (2) The institution shall establish that the equipment used for instruction or provided to a
19 student is not obsolete and is sufficient for instructional purposes to reasonably assure that a
20 student acquires the necessary level of education, training, skill, and experience to obtain
21 employment in the field of training and to perform the tasks associated with the occupation
22 or job title to which the educational program was represented to lead.

23 ...

24 18. Title 5, CCR, section 71770 (Regulation 71770) states in part:

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

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

(2) Each student admitted into a post-baccalaureate degree program shall possess a
bachelor's degree or its equivalent. If a graduate program leads to a profession or an
occupation requiring state licensure and the licensing agency does not require that a
member of the profession or occupation possess a Bachelor's degree or its equivalent,
this subdivision does not apply.

...

CAMTC POLICIES AND PROCEDURES

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2 19. Pursuant to California Business and Professions Code sections 4600 et. seq., (the
3 Massage Therapy Act), the California Massage Therapy Council (CAMTC) adopted Policies and
4 Procedures for Approval of Schools (Procedures) which establish minimum requirements for the
5 approval of massage schools. Pursuant to this authority, CAMTC adopted Procedures section
6 1.B., which states:

7 CAMTC does not accept online or distance learning hours, including but not limited to,
8 externships, homework, and self-study or credits through challenge examinations,
9 achievement tests, or experiential learning.

10 20. On March 12, 2020, in response to the escalating COVID-19 crisis, CAMTC staff
11 issued an emergency "Coronavirus (COVID-19) Contingency Plan for Schools" which allowed
12 certain temporary measures, including, but not limited to, accepting interactive distance learning
13 (IDL) for lecture-based subject matter for a set period of time. CAMTC subsequently issued two
14 updates extending these measures for additional periods of time. The most recent update on May
15 11, 2020, extended the measures through August 31, 2020.

16 21. The California Department of Public Health, the Governor's Office, and county health
17 departments have ordered most higher education providers in California, including most massage
18 therapy programs, to suspend in-person classes. These orders remain in place until further notice.
19 However, various county health departments have allowed student clinics to operate, so long as
20 they can meet the guidelines for massage therapy and other personal care businesses.

21 22. To achieve CAMTC's mission of protecting the public, CAMTC took steps aimed at
22 trying to ensure both that California's citizens training to be massage therapists are not
23 unnecessarily put at risk during this healthcare emergency, and that future certificate holders are
24 appropriately trained to properly massage the public in years to come. Thus, the CAMTC Board
25 ratified the "Coronavirus (COVID-19) Contingency Plan for Schools" documents dated March
26 12, 2020, March 27, 2020, and May 11, 2020. Additionally, as of the date of adoption of the

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1 policies contained herein, these policies supersede and replace the previous Coronavirus
2 (COVID-19) Contingency Plan for Schools dated May 11, 2020. The Board adopted the
3 following temporary measures:

4 1. Temporarily accept IDL for students whose training, provided on or after March 12,
5 2020, has been or is interrupted or otherwise impacted as a result of the COVID-19 crisis.
6 The temporary policies described herein expire 30 days after the date that the State and the
7 health department for the county in which the school is located allows in-person classes to
8 resume. These policies shall be temporarily reinstated if the State or local county health
9 department again prohibits in-person classes due to subsequent COVID-19 shutdowns or if
10 the school must discontinue in-person classes due to a COVID-19 outbreak within the
11 school. Subsequent reinstatements of these policies expire 30 days after the date that the
12 State and health department for the county in which the school is located allows in-person
13 classes to resume or, in the case of a COVID-19 outbreak within the school, 14 days after
14 the school is closed due to the outbreak.

15 2. IDL may include both lecture and hands-on hours, all under the active and direct
16 supervision of a qualified instructor. However, as part of the 500 hours required for
17 certification, students shall successfully complete a minimum of 75 hands-on hours in
18 person under the active and direct supervision of a qualified instructor. The minimum 75 in-
19 person, hands-on hours may be completed as part of a program's student clinic, so long as
20 the student clinic is approved as part of the program and meets all requirements of
21 Procedures section 5.E.c. In-person classes and student clinics shall only resume under the
22 documented permission and guidance of each school's local county health department.

23 3. Procedures section 5.E.b. requires: "A minimum of 250 hours shall be in the
24 supervised instruction of hands-on massage; California Business and Professions Code
25 section 4601 (e) defines massage as 'the scientific manipulation of the soft tissues.'" While
26 the minimum 250 hours of supervised instruction of hands-on massage may include a
27 reasonable number of hours of massage theory and demonstration, student hands-on
28 practicum shall comprise most of these hours. This means that students shall successfully
complete substantially more hands-on hours than the minimum 75 in-person, hands-on
hours required above. Students may complete these additional hands-on hours through IDL
as described below.

4. To meet the requirements for providing IDL for lecture hours, a school shall:

a. Communicate to students through one of several types of technology, and instructors
must initiate substantive communication with students, either individually or collectively,
on a regular basis;

b. Verify the identity of each IDL student; and

c. Appropriately assess each student's knowledge.

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5. To meet the requirements for providing IDL for hands-on hours, a school shall:
- a. Provide synchronous (real time) sharing of hands-on practice using video conferencing;
 - b. Verify the identity of each IDL student;
 - c. Appropriately assess each student's skills based on observed levels of performance-during-this-time;
 - d. Ensure students are equipped with the proper tools to effectively demonstrate practical applications;
 - e. Maintain required student-teacher ratios (in the case of hands-on IDL, a maximum of 18 practicing students: 1 instructor); and,
 - f. Provide in-person opportunities for students (when in-person classes resume) to complete or audit hands-on hours if the student fails to successfully complete any or all of the IDL hours, fails appropriate skills assessments, or if the student requests it.
 - g. Notify each student in writing, before the student starts the hands-on IDL hours, and obtain a signed confirmation from each student acknowledging that the student has received written notification of the following:
 - (a) Pursuant to CAMTC's Temporary Policy to Accept Interactive Distance Learning (IDL) Hours, this school offers both lecture and hands-on hours through IDL under the active and direct supervision of a qualified instructor.
 - (b) While some hands-on hours may be completed through IDL, CAMTC requires students to successfully complete a minimum of 75 of the total hands-on hours in-person under the active and direct supervision of a qualified instructor. The minimum 75 in-person, hands-on hours may be completed as part of a program's student clinic, if available.
 - (c) Students who fail to successfully complete any or all of the IDL hands on hours or fail appropriate hands-on skills assessments shall complete the hands-on hours in-person when in-person classes resume.
 - (d) A student may choose to complete any or all hands-on hours in-person rather than through IDL when in-person classes resume.
 - (e) A student, prior to graduation, who completes hands-on hours through IDL may request to audit hands-on hours in-person when in-person classes resume.

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1 6. Schools shall properly account for each student engaged in IDL, including complete
2 and accurate records of attendance, clearly identifying whether the student completed hours
3 in-person or through IDL, and whether or not the student successfully completed those
4 hours. Pursuant to Procedures section 5.E.d: "Students may not be credited more than 40
5 hours of total education in any 7-day period, with no more than 10 hours in any one day."

6
7 7. In addition to meeting the requirements of Procedures section 5.B., transcripts or
8 transcript addenda, if applicable, for students who have completed any IDL hours shall
9 identify how many hours of each course were completed in-person or through IDL.

10 8. While CAMTC has extended its temporary acceptance of DL as stated herein, the
11 California Bureau for Private Postsecondary Education's (BPPE) temporary use of distance
12 education techniques expired June 30, 2020, for institutions holding Full Approval status
13 with BPPE. For CAMTC to continue to accept IDL from a BPPE Full Approval institution,
14 that school must receive written approval from BPPE to continue to offer IDL, and provide
15 proof of written approval to CAMTC. Pursuant to Business and Professions Code section
16 4601, CAMTC can only accept hours completed as part of a program approved by BPPE.
17 Institutions that BPPE has Approved by Means of Accreditation must obtain written
18 approval to offer IDL through their accrediting agency, and provide proof of written
19 approval to CAMTC.

20 9. CAMTC Approved Schools may enter into temporary consortium agreements with
21 other CAMTC Approved Schools so that students can complete courses at other
22 institutions but be awarded credit by their home institution. If this occurs, transcripts must
23 clearly identify the education provide by each school

24 10. By the 10th of every month starting August, 2020, and until the school discontinues
25 the use of IDL, the school shall notify CAMTC by email at schooldocs@camtc.org with the
26 subject line of the email as "COVID-19 Temporary Education Plan — School Name —
27 CAM TC School Code — Month and Year" (e.g., COVID-19 Temporary Education Plan
28 — ABC School of Massage — SCH0500 — August 2020) and provide the following
information:

School Name and CAMTC School Code;

Local county jurisdiction and that county's current allowance for 1) in-person classes,
and 2) in-person clinics (must be able to provide documentation);

Start and end dates of BPPE or accrediting agency's approval to offer IDL
(must be able to provide documentation);

IDL delivery method for both lecture and hands-on hours, including the technology or
program being used;

Method used for tracking student attendance, including each student's successful
completion of those hours and identifying between in-person and IDL hours;

1 Confirmation that the school is maintaining photo or video evidence confirming the
2 hands-on hours of attendance as part of each student's permanent record or provide class
3 access information, in advance of the class occurring, to CAMTC;

4 Current enrollment by program, course, cohort, or class, as relevant to each school;

5 Current schedule of classes (including but not limited to: dates, days of week, hours
6 in day, in-person or IDL); and

7 Any anticipated changes or changes in the past month to the method of delivery.

8 11. Schools desiring to make changes to their approved curriculum, outside of the method
9 of delivery described herein, must apply to and receive approval from CAMTC for any
10 such changes, as well as for any other changes including, but not limited to, change of
11 ownership, school name, physical or mailing addresses, contact information, or staff
12 employment.

13 12. In accordance with the Massage Therapy Act, CAMTC approved schools shall meet all
14 minimum standards for training and curriculum, as well as all requirements stated in the
15 Procedures unless specifically and temporarily amended by these policies herein.

16 23. As of the date of adoption, on July 20, 2020, the above constitutes CAMTC's
17 complete policy for the temporary acceptance-of-interactive-distance-learning.

18 **FACTUAL ALLEGATIONS**

19 24. On or about May 19, 2020, the Bureau received an Application for Significant
20 Change in Method of Instructional Delivery (application number 33312) from Respondent. The
21 Application was submitted and signed under penalty of perjury by Respondent's Member and
22 contact person, Rodney Billups, and not by the Chief Executive Officer/owner, Suporn Billups.
23 Respondent sought approval to offer a change in the learning style from in-person to temporary
24 distance learning via online instruction due to the California COVID-19 Shelter-in-Place
25 Government Order restricting in-person classes.

26 25. On or about August 10, 2020, the Bureau mailed a deficiency letter to the
27 Respondent, outlining the Application's deficiencies in the proposed new method, curriculum,
28 financial resources and reports, faculty, libraries and other learning resources, implementation,
addition information and declaration under penalty of perjury. The Bureau's deficiency letter

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1 also requested to schedule a live demonstration of the institution’s delivery of online instruction,
2 and, requested a “wet” signature from the owner, Suporn Billips.

3 26. On August 24, 2020, the Bureau observed a live demonstration of the institution’s
4 delivery of online instruction for the Massage Therapist Program.

5 27. On September 9, 2020, the Bureau received a response to the Bureau’s deficiency
6 letter from the Respondent. The letter from Respondent did not address the Declaration Under
7 Penalty of Perjury deficiency.

8 28. On September 28, 2020, the Bureau denied the Respondent’s Application for
9 Significant Change in Method of Instructional Delivery and set forth deficiencies in the proposed
10 new method, curriculum, faculty, compliance with California Massage Therapy Council’s
11 (CAMTC) requirements, and declaration under penalty of perjury.

12 29. On November 12, 2020, the Bureau received an appeal of the denial.

13 **FIRST CAUSE FOR DENIAL OF APPLICATION**

14 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
15 **- Proposed New Method)**

16 30. Respondent's application is subject to denial under section under title 5, CCR,
17 sections 71600(b)(2) and 71715(d)(3)(4) and (6) in that Respondent’s proposed distance
18 education program and delivery method did not meet minimum standards for reliable technology,
19 meaningful faculty interaction, and appropriate student evaluations conducted by duly qualified
20 faculty. The circumstances are as follows:

21 a. On August 24, 2020, a Bureau representative observed a live demonstration via
22 Zoom of the institution’s delivery of online instruction and noted that Respondent’s syllabi
23 requirement that “student must position their network device, with video on, so that the instructor
24 can evaluate the quality of touch” was not enforced. Of the 19 students, five students appeared to
25 not be participating in that their screens were off, or they were sitting alone and not performing
26 any massage-based competencies.

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1 c. During the Bureau’s observation of the live demonstration on August 24, 2020, it was
2 observed that students had not been adequately assessed to determine whether they had the skills
3 and competencies necessary to succeed in a distance education environment. Numerous students
4 were not able to resolve technology (camera) problems, procure a massage partner on which to
5 demonstrate, or sufficiently comprehend instruction provided in English, in violation of title 5,
6 CCR, section 71715(d)(2).

7 **THIRD CAUSE FOR DENIAL OF APPLICATION**

8 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
9 **- Financial Resources and Reports)**

10 32. Respondent's application is subject to denial under section title 5, CCR, section 71600
11 for failing to adequately demonstrate that the institution has provided necessary information
12 regarding its funding to transition to online learning with regard to the cost of equipment, online
13 learning platform(s)/online learning resources, and training faculty, for example.

14 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

15 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
16 **- Faculty)**

17 33. Respondent's application is subject to denial under section title 5, CCR, sections
18 71710(f), 71715(b), (d)(3), (4) and (6), 71720 and Education Code section 94905 for failing to
19 adequately adapt curriculum and instruction and evaluate learning outcomes in the online learning
20 environment the institution created as set forth in CAMTC’s Coronavirus (COVID-19)
21 Contingency Plan for Schools. The circumstances are as follows:

22 a. During the Bureau’s observation of the live demonstration on August 24, 2020,
23 it was observed that the lack of training in delivery of on-line instruction was evident by the lack
24 of coaching provided to students performing massages and the instructor’s neglect of chat
25 function. The instruction offered used an instructional delivery method of poor quality which is
26 unlikely to lead to the achievement of learning objectives.

27 b. Respondent’s proposed catalog disclosure indicates students “will be expected
28 to attend live virtual lessons and complete school assignments during the clock hours presented in

1 the class schedule. However, students will not be online all day. Teachers will create a schedule
2 that allows for students to work on and offline throughout the day.” This does not appear to
3 comply with California Massage Therapy Council’s requirement that all instruction be
4 “interactive.”

5 c. During the Bureau’s observation of the live demonstration on August 24, 2020,
6 it was observed that there was a distinct lack of substantive communication during the practical
7 (hands-on) portion of instruction.

8 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

9 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
10 **- Additional Information Required)**

11 34. Respondent’s application is subject to denial under section title 5, CCR, section
12 71715(d)(7) for failing to adequately demonstrate that the institution has the appropriate language
13 in its catalog which describes the turn-around time for graded feedback on any student lessons.

14 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

15 **(Failure to Demonstrate Capacity to Meet Minimum Operating Standards**
16 **- Declaration Under Penalty of Perjury)**

17 35. Respondent's application is subject to denial under section title 5, CCR, sections
18 71600(a) and 71380 for failing to provide the owner, Suporn Billups’, signature on the
19 application. Despite being brought to the attention of the contract person identified in the
20 application by the Bureau’s deficiency letter, the issue was not addressed.

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PRAYER

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

1. Denying Andaman Institute of Massage’s Application for Substantive Change; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: 3/19/2021

"Original signature on file"
LEEZA RIFREDI
Acting Bureau Chief
Bureau for Private Postsecondary
Education
Department of Consumer Affairs
State of California
Complainant

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