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9	BEFORE THE		
10	DEPARTMENT OF CONSUMER AFFAIRS FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION		
11	STATE OF CALIFORNIA		
12			
13	In the Matter of the Statement of Issues	Case No. 1006630	
14	Against:	Case 140. 1000030	
15	CALIFORNIA BEAUTY ACADEMY	FIRST AMENDED STATEMENT OF	
16	School Code: 3003191	ISSUES STATEMENT OF	
17	Respondent.		
18			
19			
20	<u>PARTIES</u>		
21	1. Deborah Cochrone (Complainant) brings this Statement of Issues solely in her official		
22	capacity as the Chief of the Bureau for Private Postsecondary Education (Bureau), Department of		
23	Consumer Affairs.		
24	2. On or about June 26, 2020, the Burea	u received an Application for Significant	
25	Change in Method of Instructional Delivery from California Beauty Academy, owned by New		
26	American Beauty Corp., Than Mai Thi Tran (70%), and Hien Vinh Dang (30%) (Respondent).		
27	On or about June 20, 2020, Thanh Mai Thi Tran o	eertified under penalty of perjury to the	
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1	truthfulness of all statements, answers, and representations in the application. The Bureau denied	
2	the application on November 9, 2020.	
3	JURISDICTION	
4	3. This First Amended Statement of Issues is brought before the Director of the	
5	Department of Consumer Affairs (Director) for the Bureau, under the authority of the following	
6	laws. All section references are to the Education Code (Code) unless otherwise indicated.	
7	STATUTORY PROVISIONS	
8	4. Section 94893 of the Code states:	
9 10	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	
11		
12	5. Section 94932 of the Code states:	
13	The bureau shall determine an institution's compliance with the requirements of	
14	sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any	
15 16		
17	applicable law or regulation, the bureau shall take appropriate action pursuant to this article.	
18	REGULATORY PROVISIONS	
19	6. Title 5, CCR, section 71600 states in part:	
20		
21	(b) The application shall establish that the institution, if making a significant	
22	change in its method of instructional delivery, can meet the minimum operating standards contained in Chapter 3, and shall include:	
23		
24	(2) A description of the proposed new method of instructional delivery, and	
25	how the curriculum will be changed or adapted to meet the change in delivery method	
26	•••	
27	(4) A description of how the change affects students, administration, and the institution's financial resources	
28	7. Title 5, CCR, section 71655 states in part:	

1	•••
2	(b) An incomplete application filed under this Article will render it ineligible for processing, or subject to denial.
3	
4	(d) In addition to the grounds stated in subdivisions (a) and (b) of this section, the Bureau may deny an application on the following grounds:
5 6	(1) failure to establish that the proposed change will meet the institutional operating standards set forth in Chapter 3 of this Division
7	
8 9	(e) An applicant denied an approval for a substantive change to its approval to operate under this Article, may reapply or may request an informal hearing before the Director.
10	8. Title 5, CCR, 71735 states in part:
11	1
12	(a) An institution shall have sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and educational programs in which students are enrolled. If an institution represents that
the educational service will fit or prepare a student for employment in a particular job titles, either of the following conditions of the fol	
14	shall be met:
15 16	(1) The equipment used for instruction or provided to the student shall be comparable in model type or features to equipment generally used in those occupations or job titles at the time the instruction is offered.
17	(2) The institution shall establish that the equipment used for instruction or
18	provided to a student is not obsolete and is sufficient for instructional purposes to reasonably assure that a student acquires the necessary level of education, training,
19	skill, and experience to obtain employment in the field of training and to perform the tasks associated with the occupation or job title to which the educational program was represented to lead
20	
21	FACTS
22	9. On June 26, 2020, the Bureau received an Application for Significant Change in
23	
24	Method of Instructional Delivery, Application Number 33511, from Respondent. Along with this
25	application, Respondent submitted a "Change of Instructional Method: Distance Learning
26	Addendum." This addendum was copied from an application submitted by a separate institution
27	and which had been received by the Bureau on May 20, 2020.
28	

- 10. On November 9, 2020, the Bureau issued a Notice of Denial of Substantive Change. On December 9, 2020, the Bureau received a letter from Respondent, appealing the denial and requesting a hearing.
- 11. On April 30, 2021, the Bureau received additional documents in support of Respondent's application addressing the deficiencies identified in the Notice of Denial as well as the original Statement of Issues. The additional documents cured some of the deficiencies, but other deficiencies remain.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Failure to Demonstrate Ability to Comply with Minimum Operating Standards – Method of Delivery)

- 12. Respondent's application is subject to denial under title 5, CCR sections 71600(b)(2), 71655(d)(1), and 71715(d)(2) and (d)(3) in that Respondent failed to demonstrate that its proposed changes in the method of instructional delivery meet the minimum operational standards required for distance learning.
- a. Respondent failed to demonstrate that its programs and materials are delivered using readily available, reliable technology by failing to allow the Bureau access to its on-line delivery platforms, subjecting its application to denial under title 5, CCR section 71655, subdivision (d)(1), and title 5, CCR section 71715, subdivision (d)(3). Respondent explained that Zoom and Milady MindTap are being used in the delivery of distance education. However, Respondent has not provided the Bureau with access to the Milady MindTap resources. Because Respondent did not provide the Bureau with access to this platform, the Bureau was unable to assess the platform and ensure whether the materials and programs are current, well organized, designed by faculty competent in distance education techniques and delivered using readily available, reliable technology.
- b. Respondent failed to adequately describe the proposed new method of instructional delivery in that its documentation differs with regard to how much of the institution's programs will be offered online, subjecting its application to denial under title 5, CCR section 71655, subdivision (d)(1), and title 5, CCR, section 71600, subdivision (b)(2). In one section of

Respondent's supporting documentation, Respondent indicated: "Real Time online instruction will not exceed 35% of any individual program." In another section, Respondent indicated: the maximum online instruction will be 33% of the program." Individual program hours identified for online instruction do not match either of the proposed percentages. Further explanation and consistency among submissions is needed.

c. Respondent failed to provide sufficient facilities and necessary equipment to support the achievement of the educational objectives of all of the courses and educational programs in which students are enrolled, subjecting its application to denial under Code section 94932; title 5 CCR, section 71600, subdivision (b)(4). and title 5 CCR, section 71735, subdivision (a). Respondent explained that the hybrid distance education was instituted only as a stop-gap until the end of the pandemic, and that "during the pandemic . . . the school would assist a student who was without a devise [sic]." Contrary to this, however, Respondent also supplied a revised enrollment agreement "for students requesting distance education once schools reopen." Thus, Respondent's proposal with regard to the delivery of online instruction, how changes will affect students, and whether essential equipment is provided remain unclear.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Failure to Demonstrate Ability to Comply with Minimum Operating Standards – Curriculum)

- 13. Respondent's application is subject to denial under title 5, CCR sections 71600(b)(2), 71655(d)(1), and 71715(d)(2) and (d)(3) in that Respondent failed to demonstrate that its proposed changes meet the minimum operational standards required for the institution's curriculum.
- a. Respondent failed to adequately describe how the curriculum will be changed or adapted to meet the change in delivery method, subjecting its application to denial under title 5, CCR section 71600, subdivision (b)(2). Respondent explained that Milady MindTap is used for student assessments. However, Respondent has not provided access to the Milady MindTap resources, so the Bureau is unable to review examples of Respondent's assessments.

1	b. Respondent did not adequately demonstrate how its curriculum will be changed or	
2	adapted to meet the change in delivery method, subjecting its application to denial under title 5,	
3	CCR section 71600, subdivision (b)(2). Respondent's narrative response indicates: "the request	
4	is now that all theory lectures be approved for online instruction and limited practical skills be	
5	approved for online instruction." However, Respondent's course outline/syllabi indicate that only	
6	theory instruction, not practical skills, will be offered online. Additionally, the total theory hours	
7	identified for each program are greater than the number of theory hours proposed to be offered	
8	online for any program. Thus, Respondent's request that "all Theory lectures be approved for	
9	online instruction" is not reflected in the submitted course outlines/syllabi. The nature of	
10	Respondent's proposed adaptations regarding method of instruction remains unclear due to these	
11	identified inconsistencies.	
12	<u>PRAYER</u>	
13	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
14	and that following the hearing, the Director of the Department of Consumer Affairs issue a	
15	decision:	
16	1. Denying California Beauty Academy's Application for Significant Change in Method	
17	of Instructional Delivery; and,	
18	2. Taking such other and further action as deemed necessary and proper.	
19	DATED: <u>"5/18/2021"</u> "Original signature on file"	
20	DEBORAH COCHRANE Chief	
21	Bureau for Private Postsecondary Education	
22	Department of Consumer Affairs State of California	
23	Complainant	
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