

1 KATHLEEN A. KENEALY
Acting Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KEVIN J. SCHETTIG
Deputy Attorney General
4 State Bar No. 234240
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2660
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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 Statement of Issues
12 Against:

Case No. 1002084

13 **HEALTH SCIENCE INSTITUTE OF**
14 **CALIFORNIA**

STATEMENT OF ISSUES

15 **Application for Approval to Operate an**
16 **Institution Non-Accredited Applicant**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about February 24, 2014, the Bureau for Private Postsecondary Education
25 ("Bureau") received Application for Approval to Operate an Institution Non-Accredited,
26 Application Number 27101, from Health Science Institute of California ("Respondent").

27 ///

28 ///

1 **BACKGROUND AND HISTORY OF THE APPLICATION**

2 3. On or about February 12, 2014, Edna Bacate Domingo certified under penalty of
3 perjury to the truthfulness of all statements, answers, and representations in the Application.

4 4. Between April 4, 2014 and June 22, 2015, the Bureau received documents from
5 Respondent pertaining to the Application.

6 5. On or about September 14, 2015, the Bureau issued a deficiency letter to Respondent.

7 6. On or about October 14, 2015, the Bureau received Respondent's response to the
8 deficiency letter.

9 7. Between November 23, 2015 and April 18, 2016, the Bureau received documents in
10 response to the deficiency letter.

11 8. On or about May 20, 2016, the Bureau's Quality of Education Unit sent a deficiency
12 letter to Respondent.

13 9. On or about June 20, 2016, the Bureau received Respondent's response to the
14 deficiency letter.

15 10. On or about June 22, 2016 and June 27, 2016, the Bureau received additional
16 responses to the deficiency letter.

17 11. On or about August 30, 2016, the Bureau sent a "Notice of Denial" letter to
18 Respondent.

19 12. On or about September 13, 2016, Respondent sent a letter to the Bureau requesting an
20 administrative hearing.

21 **JURISDICTION**

22 13. This Statement of Issues is brought before the Director of the Department of
23 Consumer Affairs ("Director") for the Bureau for Private Postsecondary Education, under the
24 authority of the following laws. All section references are to the Education Code unless
25 otherwise indicated.

26 ///

27 ///

28 ///

1 **STATUTORY PROVISIONS¹**

2 14. Code section 94887 states: “An approval to operate shall be granted only after an
3 applicant has presented sufficient evidence to the bureau, and the bureau has independently
4 verified the information provided by the applicant through site visits or other methods deemed
5 appropriate by the bureau, that the applicant has the capacity to satisfy the minimum operating
6 standards. The bureau shall deny an application for an approval to operate if the application does
7 not satisfy those standards.”

8 15. Code section 94909, subdivision (a)(5), states:

9 (a) Except as provided in subdivision (d), prior to enrollment, an institution shall provide a
10 prospective student, either in writing or electronically, with a school catalog containing, at a
11 minimum, all of the following:

12 ...

13 (5) A description of the programs offered and a description of the instruction provided in
14 each of the courses offered by the institution, the requirements for completion of each program,
15 including required courses, any final tests or examinations, any required internships or
16 externships, and the total number of credit hours, clock hours, or other increments required for
17 completion.

18 **REGULATORY PROVISIONS**

19 16. California Code of Regulations, Title 5, section 71700, states: “The Bureau may
20 request that an institution document compliance with the standards set forth in the Act and this
21 Division to obtain and maintain an approval to operate.”

22 17. California Code of Regulations, Title 5, section 71220, subdivision (a), states:

23 “For each educational program that the institution offers or proposes to offer, the Form
24 Application 94886 shall contain a statement that the educational program meets the requirements
25 of section 71710, as well as the following:

26 _____
27 ¹ The California Private Postsecondary Education Act of 2009 was recently amended,
28 effective January 1, 2015. See, Senate Bill No. 1247. This Statement of Issues is based on the
post-amendment version of the Act.

1 (a) A description of the educational program.”

2 ...

3 18. California Code of Regulations, Title 5, section 71745, subdivision (a), states:

4 “(a) The institution shall document that it has at all times sufficient assets and financial
5 resources to do all of the following:

6 (1) Provide all of the educational programs that the institution represented it would provide.

7 (2) Ensure that all students admitted to its educational programs have a reasonable
8 opportunity to complete the programs and obtain their degrees or diplomas.

9 (3) Maintain the minimum standards required by the Act and this chapter.

10 (4) Pay timely refunds as required by Article 13 of the Act.

11 (5) Pay all operating expenses due within 30 days.

12 (6) Maintain a ratio of current assets to current liabilities of 1.25 to 1.00 or greater at the
13 end of the most recent fiscal year when using generally accepted accounting principles, or for an
14 institution participating in Title IV of the federal Higher Education Act of 1965, meet the
15 composite score requirements of the U.S. Department of Education. For the purposes of this
16 section, current assets does not include: intangible assets, including goodwill, going concern
17 value, organization expense, startup costs, long-term prepayment of deferred charges, and non-
18 returnable deposits, or state or federal grant or loan funds that are not the property of the
19 institution but are held for future disbursement for the benefit of students. Unearned tuition shall
20 be accounted for in accordance with general accepted accounting principles.”

21 19. California Code of Regulations, Title 5, section 71270, states:

22 “The Form Application 94886 shall include a description of library holdings, services, and
23 other learning resources, including policies and procedures for supplying them to students who do
24 not receive classroom instruction. The description need not consist of a list of each holding. The
25 description shall include an explanation of how the library and other learning resources are
26 sufficient to support the instructional needs of students and, if no facilities exist at the institution,
27 how and when students may obtain access to a library and other learning resources as required by
28 the curriculum.”

1 20. California Code of Regulations, Title 5, section 71740, subdivision (d)(1), states:
2 “(d) An institution that depends for library and other learning resources primarily on other
3 institutions’ collections and resources not in its possession shall do all of the following:
4 (1) Describe those library and other learning resources, in the application and catalog.”

5 ...

6 21. California Code of Regulations, Title 5, section 71775, states:
7 “(a) An unaccredited institution enrolling a student in a degree program that has received
8 provisional approval shall, prior to execution of an enrollment agreement, provide the student
9 with the following notice, which shall be in at least 12-point type in the same font as the
10 enrollment agreement:

11 ‘Notice to Prospective Degree Program Students

12 This institution is provisionally approved by the Bureau for Private Postsecondary
13 Education to offer degree programs. To continue to offer this degree program, this institution
14 must meet the following requirements:

- 15 • Become institutionally accredited by an accrediting agency recognized by the United
16 States Department of Education, with the scope of the accreditation covering at least one degree
17 program.
- 18 • Achieve accreditation candidacy or pre-accreditation, as defined in regulations, by (date
19 two years from date of provisional approval), and full accreditation by (date five years from date
20 of provisional approval).

21 If this institution stops pursuing accreditation, it must:

- 22 • Stop all enrollment in its degree programs, and
- 23 • Provide a teach-out to finish the educational program or provide a refund.

24 An institution that fails to comply with accreditation requirements by the required dates
25 shall have its approval to offer degree programs automatically suspended.

26 Institutional Representative Initials: _____ Student Initials: _____

27 Date: _____ Date: _____

28 ///

1 (b) The student and an institutional representative shall initial and date the notice prior to
2 executing an enrollment agreement. An initialed copy of the notice shall be given to the student
3 and the original shall be retained in the enrolled student's records.

4 (c) The notice shall also be posted immediately preceding or following as to clearly pertain
5 to the description of the degree program, including, but not limited to, one or more of the
6 following; admissions requirements, length of program, courses offered or areas of focus. Such
7 notice shall be included, at a minimum, in the following locations:

8 (1) The institution's catalog where each degree program is described.

9 (2) The institution's website where each degree program is described.

10 (3) The institution's degree program brochures."

11 **FIRST CAUSE FOR DENIAL OF APPLICATION**

12 **(Failure to Meet Minimum Operating Standards - Description of Educational Program)**

13 22. Respondent's application is subject to denial under section 94887 in that
14 Respondent's description of its educational program is in violation of Section 94909, subdivision
15 (a)(5) and California Code of Regulations, Title 5, section 71220, subdivision (a). The
16 calculation of hours for the following programs remains incorrect:

17 a. Licensed Vocational Nursing Training Program

18 Term II lists 474 hours will be completed; however, the hours listed add up to only
19 462 hours. Term III lists 339 hours will be completed; however, the hours listed add up to only
20 340 hours. Term IV lists 289 hours will be completed; however, the hours listed add up to only
21 285 hours.

22 b. Physical Therapist Assistant Program

23 The program length is stated to be 1782 hours. However, the hours listed for the five-
24 semester program add up to only 1707 hours.

25 ///

26 ///

27 ///

28 ///

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Meet Minimum Operating Standards - Financial Resources and Statements)**

3 23. Respondent's application is subject to denial under section 94887 for failing to submit
4 complete financial records to the Bureau in violation of California Code of Regulations, Title 5,
5 section 71745, subdivision (a). The circumstances are as follows:

6 a. On or about February 24, 2014, Respondent submitted incomplete financial
7 statements with its initial Application.

8 b. On or about November 23, 2015, Respondent again submitted incomplete
9 financial records. The records included the 2014 fiscal year and six months of financial
10 statements ending June 30, 2015. Both sets of financial statements met the regulation's ratio
11 requirements; however, they failed to meet the "Thirty Day Operating Expense Test."

12 c. On or about June 22, 2016, Respondent again submitted financial records. The
13 records included the 2015 fiscal year and four months of financial statements ending April 30,
14 2016. The 2015 financial statements failed to meet the ratio requirements or the Thirty Day
15 Operating Expense Test. The additional four months of financial statements spanning January
16 2016 to April 2016 successfully met the necessary ratio; however, they did not meet the Thirty
17 Day Operating Expense Test.

18 **THIRD CAUSE FOR DENIAL OF APPLICATION**

19 **(Failure to Meet Minimum Operating Standards - Libraries and Other Learning**
20 **Resources)**

21 24. Respondent's application is subject to denial under section 94887 for failing to meet
22 minimum operating standards in violation of California Code of Regulations, Title 5, sections
23 71270 and 71740, subdivision (d)(1). In Respondent's deficiency response received by the
24 Bureau on or about June 20, 2016, Respondent stated that documentation of an online resource
25 and database collection was included in "Attachment C." However, Respondent did not include
26 "Attachment C." Respondent has not clearly demonstrated how the current library holdings will
27 adequately support the needs of students pursuing a bachelor's degree.

28 ///

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Failure to Meet Minimum Operating Standards - Catalog)**

3 25. Respondents application is subject to denial under section 94887 in that Respondent
4 failed to meet minimum operating standards with regard to Respondent's catalog in violation of
5 section 94909, subdivision (a)(5) and California Code of Regulations, Title 5, section 71775. The
6 circumstances are as follows:

7 a. The cited regulation for the *Notice to Prospective Degree Program Students* on
8 page 15 of the catalog is stated as, "5 CA ADC § 71775." This is incorrect.

9 b. The hours calculations for the following programs are listed incorrectly in the
10 catalog:

11 i) Licensed Vocational Nursing Training Program

12 Term II lists 474 hours will be completed; however, the hours listed add up to 462
13 hours. Term III lists 339 hours will be completed; however, the hours listed add up to only 340
14 hours. Term IV lists 289 hours will be completed; however, the hours listed add up to only 285
15 hours.

16 ii) Physical Therapist Assistant Program

17 The program length is stated to be 1782 hours. However, the hours listed for the five-
18 semester program add up to only 1707 hours.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 the application of Health Science Institute of California for Approval to Operate an Institution Non-Accredited;
2. Taking such other and further action as deemed necessary and proper.

DATED: 1-11-17



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

LA2016602590
52332217_2.doc