

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU FOR PRIVATE POSTSECONDARY EDUCATION**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. 999965

13 **SOUTH BAYLO UNIVERSITY,**
14 **DBA SOUTH BAYLO UNIVERSITY**
SCHOOL OF ORIENTAL MEDICINE,
15 **1126 N Brookhurst St**
Anaheim, CA 92801

A C C U S A T I O N

16 **Approval to Operate No. 3004561**

17 Respondent.

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 (Bureau), Department of Consumer
22 Affairs.

23 2. On or about March 6, 1986, the California State Department of Education, Private
24 Postsecondary Education Division (CSDE), issued a Provisional Approval to South Baylo
25 University to offer an Acupuncture program. South Baylo University received course approval to
26 offer acupuncture from CSDE on April 24, 1987. On January 1, 1995, the Bureau for Private
27
28

1 Postsecondary and Vocational Education¹ (hereinafter "BPPVE") issued an approval to operate
2 South Baylo University, dba South Baylo University School of Oriental Medicine (Respondent).
3 In 1998, BPPVE approved Respondent to offer a Bachelor of Science in Acupuncture and
4 Oriental Medicine, and in June 1999, the program title was changed to Bachelor of Science
5 Holistic Science (BSHS).

6 JURISDICTION

7 3. This Accusation is brought before the Director of the Department of Consumer
8 Affairs (Director) for the Bureau under the authority of the following laws. All section references
9 are to the Education Code unless otherwise indicated.

10 4. Education Code (Code) section 94932 states:

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

16 5. Code section 94933 states:

17 The bureau shall provide an institution with the opportunity to remedy
18 noncompliance, impose fines, place the institution on probation, or suspend or
19 revoke the institution's approval to operate, in accordance with this article, as it
20 deems appropriate based on the severity of an institution's violations of this
21 chapter, and the harm caused to students.

22 6. Code section 94937 states:

23 (a) As a consequence of an investigation, which may incorporate any materials
24 obtained or produced in connection with a compliance inspection, and upon a
25 finding that an institution has committed a violation, the bureau may place an
26 institution on probation or may suspend or revoke an institution's approval to
27 operate for:

28 (1) Obtaining an approval to operate by fraud.

(2) A material violation or repeated violations of this chapter or

¹ The former Bureau for Private Postsecondary and Vocational Education sunsetted on July 1, 2007. On October 11, 2009, the Bureau for Private Postsecondary Education Act of 2009 (AB 48) was signed into law. The Act, which became operative on January 1, 2010, established the Bureau for Private Postsecondary Education).

1 regulations adopted pursuant to this chapter that have resulted in harm to
2 students. For purposes of this paragraph, "material violation" includes, but is
3 not limited to, misrepresentation, fraud in the inducement of a contract, and
4 false or misleading claims or advertising, upon which a student reasonably
5 relied in executing an enrollment agreement and that resulted in harm to the
6 student.

(b) The bureau shall adopt regulations, within one year of the enactment of this
chapter, governing probation and suspension of an approval to operate.

(c) The bureau may seek reimbursement pursuant to Section 125.3 of the
Business and Professions Code.

(d) An institution shall not be required to pay the cost of investigation to more
than one agency.

7. Business and Professions Code section 118 states, in part:

...

(b) The suspension, expiration, or forfeiture by operation of law of a license
issued by a board in the department, or its suspension, forfeiture, or cancellation by
order of the board or by order of a court of law, or its surrender without the written
consent of the board, shall not, during any period in which it may be renewed,
restored, reissued, or reinstated, deprive the board of its authority to institute or
continue a disciplinary proceeding against the licensee upon any ground provided
by law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.

(c) As used in this section, 'board' includes an individual who is authorized by
any provision of this code to issue, suspend, or revoke a license, and 'license'
includes 'certificate,' 'registration,' and 'permit.'"

STATUTORY AND REGULATORY PROVISIONS

8. Business and Professions Code section 477 states:

As used in this division:

(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,'
'division,' 'examining committee,' 'program,' and 'agency.'

(b) 'License' includes certificate, registration or other means to engage in a
business or profession regulated by this code.

9. Section 94897 of the Education Code states:

An institution shall not do any of the following:

...

(j) In any manner make an untrue or misleading change in, or untrue or misleading
statement related to, a test score, grade or record of grades, attendance record,

///

1 record indicating student completion, placement, employment, salaries, or
2 financial information, including any of the following:

3 ...

4 (3) Any other record or document required by this chapter or by the bureau.

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

7 ...

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

12 ...

13 (2) A statement that reads: "A degree program that is unaccredited or a
14 degree from an unaccredited institution is not recognized for some employment
15 positions, including, but not limited to, positions with the State of California."

16 (3) That a student enrolled in an unaccredited institution is not eligible for
17 federal financial aid programs.

18 10. Section 94900 of the Education Code states:

19 ...

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

22 (1) The degree or certificate granted and the date on which that degree or
23 certificate was granted.

24 ...

25 (3) The grades earned by the student in each of those courses."

26 11. Code section 94900.5 states:

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

(a) The educational programs offered by the institution and the curriculum for
each.

(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.

(c) Any other records required to be maintained by this chapter, including, but not
limited to, records maintained pursuant to Article 16 (commencing with Section
94928).

1 12. Code section 94902 states in part:

2 (a) A student shall enroll solely by means of executing an enrollment agreement.
3 The enrollment agreement shall be signed by the student and by an authorized
4 employee of the institution.

...

5 13. Code section 94906 states in part:

6 (a) An enrollment agreement shall be written in language that is easily understood.
7 If English is not the student's primary language, and the student is unable to
8 understand the terms and conditions of the enrollment agreement, the student shall
9 have the right to obtain a clear explanation of the terms and conditions and all
10 cancellation and refund policies in his or her primary language.

11 (b) If the recruitment leading to enrollment was conducted in a language other than
12 English, the enrollment agreement, disclosures, and statements shall be in that
13 language.

14 14. Code section 94911 states in part:

15 An enrollment agreement shall include, at a minimum, all of the following:

16 (a) The name of the institution and the name of the educational program, including
17 the total number of credit hours, clock hours, or other increment required to
18 complete the educational program.

...

19 15. Code section 94929 states:

20 (a) An institution shall annually report to the bureau, as part of the annual report,
21 and publish in its School Performance Fact Sheet, the completion rate for each
22 program. Except as provided in subdivision (b), the completion rate shall be
23 calculated by dividing the number of on-time graduates by the number of students
24 available for graduation.

25 (b) In lieu of calculating graduation data pursuant to subdivision (a), an institution
26 may report graduation data reported to, and calculated by, the Integrated
27 Postsecondary Education Data System of the United States Department of
28 Education.

16. Code section 94929.5 states:

(a) An institution shall annually report to the bureau, as part of the annual report,
and shall publish in its School Performance Fact Sheet, all of the following:

(1) The job placement rate, calculated by dividing the number of graduates
employed in the field by the number of graduates available for employment for
each program that is either (1) designed, or advertised, to lead to a particular
career, or (2) advertised or promoted with any claim regarding job placement.

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1 (2) The license examination passage rates for the immediately preceding two
2 years for programs leading to employment for which passage of a state licensing
3 examination is required, calculated by dividing the number of graduates who pass
4 the examination by the number of graduates who take the licensing examination
5 the first time that the examination is available after completion of the educational
6 program. The institution shall use state agency licensing data to calculate license
7 examination passage rates. If those data are unavailable, the institution shall
8 calculate the license examination passage rate in a manner consistent with
9 regulations adopted by the bureau.

6 (3) Salary and wage information, consisting of the total number of graduates
7 employed in the field and the annual wages or salaries of those graduates stated in
8 increments of five thousand dollars (\$5,000).

8 (4) If applicable, the most recent official three-year cohort default rate
9 reported by the United States Department of Education for the institution and the
10 percentage of enrolled students receiving federal student loans.

10 (b) Nothing in this section shall limit the bureau's authority to collect information
11 from an institution to comply with this section and ensure, by regulation and other
12 lawful means, that the information required by this section, and the manner in
13 which it is collected and reported, is all of the following:

13 (1) Useful to students.

14 (2) Useful to policymakers.

15 (3) Based upon the most credible and verifiable data available.

16 (4) Does not impose undue compliance burdens on an institution.

17 (c) Data and information disclosed pursuant to paragraphs (1) to (3), inclusive, of
18 subdivision (a) is not required to include students who satisfy the qualifications
19 specified in subdivision (d) of Section 94909, but an institution shall disclose on its
20 fact sheet and to the bureau whether its data, information, or both, excludes any
21 students pursuant to this subdivision.

20 17. Code section 94929.7 states:

21 (a) The information used to substantiate the rates and information calculated
22 pursuant to Sections 94929 and 94929.5 shall do both of the following:

23 (1) Be documented and maintained by the institution for five years from the date
24 of the publication of the rates and information.

25 (2) Be retained in an electronic format and made available to the bureau upon
26 request.

26 ...
27 (c) The bureau shall identify the specific information that an institution is required
28 to document and maintain to substantiate rates and information pursuant to this
section.

1 18. Title 5, California Code of Regulations (CCR), section 71770 states in part:

2 (a) The institution shall establish specific written standards for student admissions
3 for each educational program. These standards shall be related to the particular
4 educational program. An institution shall not admit any student who is obviously
5 unqualified or who does not appear to have a reasonable prospect of completing

6 the program. In addition to any specific standards for an educational program, the
7 admissions standards must specify as applicable that:

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

12 ...
13 (b) The institution shall specify the maximum credit it will transfer from another
14 institution for each educational program, and the basis upon which the transferred
15 credit will be awarded.

16 (1) Except as limited by subdivision (c) of this section, a maximum of 75
17 percent of the units or credit that may be applied toward the award of a bachelor's
18 degree may be derived from a combination of any or both of the following:

19 (A) Units earned at institutions approved by the Bureau, public or
20 private institutions of higher learning accredited by an accrediting
21 association recognized by the U. S. Department of Education, or any
22 institution of higher learning, including foreign institutions, if the
23 institution offering the undergraduate program documents that the
24 institution of higher learning at which the units were earned offers
25 degree programs equivalent to degree programs approved by the
26 Bureau or accredited by an accrediting association recognized by the
27 U.S. Department of Education;

28 ...
29 19. Title 5, CCR, section 71800 states:

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

33 (a) The name and address of the institution and the addresses where instruction
34 will be provided.

35 (b) Period covered by the enrollment agreement.

36 (c) Program start date and scheduled completion date.

37 (d) Date by which the student must exercise his or her right to cancel or withdraw,
38 and the refund policy, including any alternative method of calculation if approved
by the Bureau pursuant to section 94921 of the Code.

1. (e) Itemization of all institutional charges and fees including, as applicable:

2. (1) tuition;
3. (2) registration fee (non-refundable);
4. (3) equipment;
5. (4) lab supplies or kits;
6. (5) Textbooks, or other learning media;
7. (6) uniforms or other special protective clothing;
8. (7) in-resident housing;
9. (8) tutoring;
10. (9) assessment fees for transfer of credits;
11. (10) fees to transfer credits;
12. (11) Student Tuition Recovery Fund fee (non-refundable);
13. (12) any other institutional charge or fee.

14. (f) Charges paid to an entity other than an institution that is specifically required for participation in the educational program.

15. 20. Title 5, CCR, section 71920 states in part:

16. ...

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

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

19. (A) Verification of high school completion or equivalency or other documentation establishing the student's ability to do college level work, such as successful completion of an ability-to-benefit test;

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

21. ...

22. (3) Copies of all documents signed by the student, including contracts, instruments of indebtedness, and documents relating to financial aid;

23. ...

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

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

4 ...

5 (9) A document showing the total amount of money received from or on behalf of
6 the student and the date or dates on which the money was received;

7 ...

8 21. Title 5, CCR, section 71930 states in part:

9 ...

10 (b) (1) In addition to permanently retaining a transcript as required by section
11 94900(b) of the Code, the institution shall maintain for a period of 5 years the
12 pertinent student records described in Section 71920 from the student's date of
13 completion or withdrawal.

14 ...

15 (e) All records that the institution is required to maintain by the Act or this chapter
16 shall be made immediately available by the institution for inspection and copying
17 during normal business hours by the Bureau and any entity authorized to conduct
18 investigations.

19 ...

20 22. Title 5, CCR, section 74112 states in part:

21 ...

22 (m) Documentation supporting all data reported shall be maintained electronically
23 by the institution for at least five years from the last time the data was included in
24 either an Annual Report or a Performance Fact Sheet and shall be provided to the
25 Bureau upon request; the data for each program shall include at a minimum:

26 (1) the list of job classifications determined to be considered gainful employment
27 for the educational program;

28 (2) student name(s), address, phone number, email address, program completed,
program start date, scheduled completion date, and actual completion date;

(3) graduate's place of employment and position, date employment began, date
employment ended, if applicable, actual salary, hours per week, and the date
employment was verified;

(4) for each employer from which employment or salary information was obtained,
the employer name(s) address and general phone number, the contact person at the
employer and the contact's phone number and email address, and all written
communication with employer verifying student's employment or salary;

///

1 (5) for students who become self-employed, all documentation necessary to
demonstrate self-employment;

2 (6) a description of all attempts to contact each student or employer;

3 (7) any and all documentation used to provide data regarding license examinations
4 and examination results;

5 (8) for each student determined to be unavailable for graduation or unavailable for
6 employment, the identity of the student, the type of unavailability, the dates of
unavailability, and the documentation of the unavailability; and

7 (9) the name, email address, phone number, and position or title of the institution's
8 representative who was primarily responsible for obtaining the students'
9 completion, placement, licensing, and salary and wage data, the date that the
information was gathered, and copies of notes, letters or emails through which the
information was requested and gathered.

10 ...

11 COST RECOVERY

12 23. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
16 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
17 included in a stipulated settlement.

18 FACTS

19 COMPLAINT INVESTIGATION

20 24. On September 10, 2014, the Bureau's Complaint Investigation Unit received via e-
21 mail an anonymous complaint about Respondent and California University of Management and
22 Sciences (CalUMS) that a civil lawsuit was filed against Respondent and CalUMS alleging
23 student grade tampering, students hired for faculty positions, I-20 Visa fraud and operating a
24 diploma mill. The complaint alleged that D.P. was the founder and President of Respondent and
25 CalUMS. The allegations in this Accusation pertain to Respondent only.

26 25. On September 12, 2014, the Bureau received another e-mail complaint with similar
27 allegations against Respondent. On April 1, 2015, the Bureau received another complaint, this
28 time from "whistleblowers" about Respondent that alleged computer tampering, falsification of

1 records, selling diplomas, and grade tampering, among other things. The whistleblowers were
2 M.P. (Respondent's Registrar), A.P. (Respondent's Vice Chancellor) and G.C. (Respondent's
3 Compliance Officer/Accreditation Administrator and an instructor. The complaint included
4 approximately 21 student records.

5 26. Among the allegations of the whistleblowers' complaint to the Bureau was that
6 students received a Bachelor of Science in Holistic Science (BSHS) diploma after graduating
7 from the Master of Science in Acupuncture Oriental Medicine (MSAOM) program. Students
8 who earned credits attending the MSAOM program were also given credits towards the BSHS
9 program at the same time and diplomas were issued to unqualified students. In addition,
10 transcripts provided by Respondent to the California Acupuncture Board (CAB) and National
11 Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) were different
12 from Respondent's official transcripts. The Registrar's log of BSHS degrees issued identified
13 five students who were not registered by the Registrar. They are students L.T. (Student 32L),
14 T.T., A.E., J.Y. and Y.C. (Student 32B)

15 27. The whistleblowers' complaint also alleged that certain students who had been issued
16 degrees in BSHS were not qualified. In addition, the complaint alleged that R.B., Respondent's
17 Student Advisor, charge students money to change their TOEFL (Test of English as a Foreign
18 Language) test results with the knowledge of Respondent's President, J.S., corrected the answers
19 of student's TOEFL exams before submission for an official score and allowed students to take
20 the exam in different rooms and on another campus.

21 28. On or about April 30, 2015, the whistleblowers advised K.J. that D.P. became aware
22 of the whistleblowers' complaint to the BPPE. D.P. asked the whistleblowers which documents
23 had been provided to the Bureau and told the whistleblowers that he wanted to "fix" the
24 documents. D.P. asked the G.C. several times about the documents submitted to the Bureau.

25 29. In May, 2015, A.P.'s position at the school was eliminated; in June, 2015, M.P. and
26 G.C. were terminated.

27 30. On or about June 18, 2015, Bureau Enforcement Analysts, K.J. and B.K., visited
28 Respondent's Anaheim campus. They were greeted by C.P., the Registrar, who escorted K.J. and

1 B.K. on a campus tour. The Anaheim campus has three floors of the building; classrooms were
2 on the first two floors and an acupuncture clinic was on the third floor. K.J. and B.K. requested
3 the records of 16 students however C.P. was only able to locate six student files. However, C.P.
4 located and provided official transcripts for all 16 of the students (Students 32A to 32P)

5 31. K.J. and B.K. interviewed J.S., the President of Respondent school. J.S. stated he was
6 aware of the "Whistleblower case." J.S. stated that many of Respondent's students attend classes
7 in both the Los Angeles and Anaheim campuses. J.S. stated that the school recently moved all the
8 student files to the Anaheim campus as instructed by their accrediting agency, Accreditation
9 Commission for Acupuncture and Oriental Medicine (ACAOM).

10 32. J.S. explained that 30% of the students admitted to Respondent school were awarded
11 a BSHS. The students are required to have two years of prior college and a minimum of 90 units
12 to be accepted into the MSAOM program. The classes taken while enrolled in the MSAOM
13 program are also applied to the BSHS degree to fulfill the 180 required units for the BSHS.
14 According to J.S., the BSHS was not an accredited program however, ACAOM allowed the
15 school to issue the BSHS diplomas.

16 33. K.J. requested the remaining student files and a student roster for the BSHS program
17 for the past five years. K.J. received the student files on July 9, 2015.

18 34. On or about July 15, 2015, K.J. learned that ACAOM conducted a site visit for
19 accreditation purposes. The site visit occurred from May 27, 2015 through May 29, 2015. On
20 July 28, 2015, K.J. received the ACAOM Site Visit Report. K.J. noted there were 18 findings of
21 non-compliance.

22 35. On or about August 11, 2015, K.J. returned to the school with Bureau Enforcement
23 Analyst J.C. and obtained copies of five randomly selected BSHS student records (Students 32Q
24 through 32U).

25 36. Bureau investigators also obtained the student records of K.R. (Student 32A) from
26 Respondent's Virginia campus and compared it with the records obtained during the on-site
27 investigation on June 18, 2015. K.R. enrolled in Respondent's Virginia campus on April 3, 2014
28 and transferred to Respondent's Anaheim campus on April 7, 2015. K.R.'s student records

1 obtained during the on-site visit were missing eight documents that had been in the records
2 provided by the whistleblowers. The missing documents included:

- 3 a. Email dated February 12, 2015, that contained K.R.'s Academic Record;
- 4 b. Email dated October 27, 2014, that contained K.R.'s Academic Record;
- 5 c. Academic Records printed on January 26, 2015;
- 6 d. Academic Record printed on February 11, 2015;
- 7 e. Bergen Community College Office Transcript dated April 18, 2014;
- 8 f. Two pages of Bergin Course descriptions; and,
- 9 g. Student Files Checklist.

10 37. The following discrepancies were found between K.R.'s Academic Record contained
11 in the October 24, 2014 e-mail and the Official Transcript obtained during the site visit on June
12 18, 2015:

- 13 a. Transfer Credits were included in the June 18, 2015 Official Transcript;
- 14 b. Spring 2014, BS310 History of Medicine grade changed from A to B;
- 15 c. Spring 2014, BS384 Systemic Pathology grade changed from B to A; and,
- 16 d. Summer 2015, AC342 Acupuncture B grade changed from A to B.

17 38. The following discrepancies were found between the documents provided by the
18 whistleblowers and K.R.'s records obtained during the site visit on June 18, 2015:

- 19 a. April 3, 2014, Admissions Evaluation Form, Semester units modified from 180 to
20 177 and the Dong-A-University year 1985 had been changed to 1986;
- 21 b. April 27, 2014, Program Language Acknowledgement document the date had been
22 added;
- 23 c. June 2, 2014, Course Registration Form the Academic Advisor signature was added;
- 24 d. July 7, 2014, Add & Drop Form the Academic Advisor signature was added; and,
- 25 e. July 10, 2014, Add & Drop Form an Academic Advisor signature was added.

26 39. Review of the remaining 20 student records (Students 32B through 32U) revealed the
27 following:

28 ///

- 1 a. No high school diplomas or equivalent education documents were in Student files
2 32A through 32U.
- 3 b. No BSHS Enrollment Agreements were in Student files 32B through 32T.
- 4 c. Documents such as previous transcripts, evaluation forms, academic records,
5 transcripts and BSHS diplomas were missing from Student files 32A, 32C, 32D, 32G through
6 32P.
- 7 d. Diplomas were issued without identification numbers. (Students 32E, 32G, 32J, 32M,
8 32N, 32O, and 32P)
- 9 e. Transfer credits for Students 32C, 32F and 32L increased after the graduation date.
- 10 f. BSHS diplomas were not identified on official transcripts issued to CAB for Students
11 32B, 32E, 32H through 32O.

12 40. A review of Respondent's February 1, 2010-August 22, 2013 "BA Degree" list
13 (Bachelor diploma applicants who paid fees to receive their diplomas) provided by the
14 whistleblowers with the Roster of Students enrolled in the BSHS program and who received
15 diplomas from June 2010 to June 2015 revealed 23 students on the BA Degree List who were not
16 on the BSHS roster. The 23 students paid a fee to receive the diploma but were not enrolled in
17 the BSHS program.

18 41. On October 22, 2015, K.J. requested financial ledgers and transcripts for six BSHS
19 students: Students 32L, 32Q, 32R, 32S, 32T and 32U. K.J. received the requested documents on
20 October 22, 2015.

21 42. Review of the ledgers revealed that the following payments were not included in the
22 students' ledgers:

Student #	Receipt Print Date	Amount	Receipt #
32D	3/5/2010	\$100	AN038902
32C	3/14/2012	\$550	LA022073
32F	3/15/2012	\$550	AN052651
32L	10/3/2012	\$550	AN056427
32H	2/21/2013	\$550	LA024352
32K	2/27/2013	\$550	AN059188
32I	8/22/2013	\$550	AN061998

1 43. On November 4, 2015, K.J. reviewed Respondent's website at www.southbaylo.edu
2 and reviewed the admission requirements for the MSAOM program. According to the website,
3 the requirements for admission in the MSAOM program included applicants who have completed
4 a bachelor's degree or its equivalent from an institution accredited by an agency recognized by the
5 U.S. Department of Education and applicants who have not completed a bachelor's degree but
6 earned at least 90 quarter units or 60 semester units at the baccalaureate level from an accredited
7 institution. Further, "any credit used for admissions requirements shall not be used again for
8 credit towards the Master's degree program."

9 44. CAB's requirements for admission to acupuncture and oriental medicine training
10 programs included the completion of least two academic years (60 semester credits/90 quarter
11 credits) of education at the baccalaureate level, or the equivalent from an institution accredited by
12 an agency recognized by the U.S. Secretary of Education. During K.J.'s investigation, she found
13 that some students did not meet Respondent's or CAB's admission requirements, and that after
14 learning of the whistleblower's complaint, Respondent created new admission evaluation sheets
15 that inflated the student's previous education credits on the new evaluation sheets. The BSHS
16 student files did not have BSHS enrollment agreements, BSHS academic records or transcripts.
17 A student that was enrolled in the Master's program was automatically provided the Bachelor's
18 degrees.

19 45. On May 23, 2016, K.J. requested copies of the following student records from CAB,
20 32B, 32C, 32E through 32J, 32L through 32P. K.J. was advised that students 32D and 32F did
21 not submit applications to take the acupuncture exams and therefore CAB did not have records for
22 these students.

23 COMPLIANCE INSPECTION

24 46. On April 19, 2016, M.A. from the Bureau's Compliance Unit conducted an
25 unannounced compliance inspection of Respondent's Anaheim campus. The inspection included
26 a tour of the campus, review of student records and interviews with staff.

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1 47. Although the institution was approved to provide instruction in English, Chinese, and
2 Korean, M.A. found that the institution did not provide or maintain an enrollment agreement,
3 catalog and School Performance Fact Sheet (SPFS) in Chinese and Korean.

4 48. The institution recruited and enrolled Chinese and Korean speaking students without
5 providing students with a catalog, enrollment agreement, and SPFS in their primary language.

6 49. The institution offered a BSHS program that ran concurrently with the MSAOM.
7 M.A. requested a list of students in the BSHS program. J.S. stated there was no such list because
8 the BSHS program was part of the MSAOM program and stated that he had approval for this
9 from the accrediting body but could not provide documentation. Later in the day, J.S. stated the
10 institution no longer offered the BSHS program. By the end of the day, J.S. stated the institution
11 did offer the BSHS program. J.S. was cautioned that the school may be offering an unapproved
12 "combo" program.

13 50. During M.A.'s inspection, M.A. reviewed 11 student files: Y.S., J.G., H.V., E.V.,
14 S.J., K.M., M.T., J.P., A.C., D.K. and S. L. Of the student files reviewed, no student files
15 contained enrollment agreements for the BSHS program. However several student files indicated
16 the students were enrolled in the BSHS program as stated on transcripts, degrees, emails, or
17 letters. Examples are:

18 a. J.P. – The student file contained an enrollment agreement for MSAOM program but
19 none for BSHS program. However, the file contained a BSHS diploma. Form I-20 stated the
20 student was not proficient in English; however the enrollment agreement was written in English.
21 The student file did not contain a SPFS.

22 b. Y.S. – The student file contained an enrollment agreement for MSAOM program but
23 none for BSHS program. However, the file contained an e-mail from the school that the student
24 met the admissions requirements for the BSHS program and that the BSHS degree will be
25 awarded upon completion of the MSAOM program.

26 c. E.V. – The student file contained an enrollment agreement for MSAOM program but
27 none for BSHS program. However, the file contained an Admission Evaluation form that
28 indicated the student met the BSHS and MSAOM admissions requirements.

1 d. K.M. – The student file contained an enrollment agreement for MSAOM program
2 but none for BSHS program. However, the file contained an e-mail from the school that the
3 student met the admissions requirements for the BSHS program and that the BSHS degree will be
4 awarded upon completion of the MSAOM program. The file also contained a BSHS diploma.

5 51. On July 7, 2016, K.J. sent a letter to D.P. at the institution regarding violations
6 identified during the compliance inspection on April 19, 2016. K.J. also requested the school
7 provide SPFS back up data for the last five years, student enrollment agreements and SPFS in
8 Korean and Chinese, and a BSHS student roster for all students enrolled in the last five years. K.J.
9 requested the information by July 21, 2016. The requested documents were not provided to K.J.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Violations Regarding Admissions Standards and Transferred Credits Policy)**

12 52. Respondent is subject to disciplinary action under title 5, CCR, section 71770(a), in
13 that Respondent failed to comply with its policy for admission in the MSAOM program as set
14 forth below and in paragraphs 24-51 above and incorporated by this reference as though set forth
15 in full herein:

16 a. Admission in the MSAOM program required a baccalaureate degree or completion of
17 60 semester units or 90 quarter units at a baccalaureate level from an accredited institution.
18 Students 32G and 32S did not have the required previous college units.

19 b. Respondent's admission policy stated that any credit used to meet admission
20 requirements shall not be used again for credit towards the Master's degree program. Students
21 32Q and 32T met the required number of college units for admission however, the units were
22 applied towards the MSAOM program.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Failure to Obtain Documentation of High School Completion or Equivalent)**

25 53. Respondent is subject to disciplinary action under title 5, CCR, section 71770(a)(1)
26 in that Respondent failed to ensure that each student admitted to an undergraduate degree program
27 possessed a high school diploma or its equivalent in that none of the 21 student files reviewed
28 (Students 32A through 32U) contained documentation of high school completion or its.

1 equivalent, as more fully set forth in paragraphs 24-51 above and incorporated by this reference as
2 though set forth herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violations Regarding Transferred Credit from Another Institution)**

5 54. Respondent is subject to disciplinary action under title 5, CCR, section
6 71770(b)(1)(A) in that Respondent failed to comply with admission requirements regarding the
7 transfer of units from another institution, including foreign institutions when Respondent admitted
8 Student 32C for the MSAOM program, as more fully set forth below and in paragraphs 24-51
9 above and incorporated by this reference as though set forth herein.

10 55. Student 32C's file indicated this student received college units from Hung Sheng
11 Christian College in Taiwan, which was not regionally accredited. A Credential Evaluation
12 Report prepared by a third party stated that Hung Sheng Christian College did not have regional
13 accreditation in Taiwan. However, the student was allowed to enroll and graduate.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Failure to Provide Enrollment Agreements)**

16 56. Respondent is subject to disciplinary action under title 5, CCR, section 71800 and
17 Code sections 94902(a) and 94911(a), in that Respondent failed to provide each student in the
18 BSHS program an enrollment agreement as set forth below and in paragraphs 24-51 above and
19 incorporated by this reference as though set forth in full herein.

20 57. Nineteen out of 19 student files that were reviewed (Students 32B through 32T)
21 pursuant to the Bureau's investigation on June 18, 2015 did not have BSHS Enrollment
22 Agreements. However, these students were named in the BSHS Student Roster.

23 58. During the compliance inspection on April 19, 2016, the student files of Y.S., J.G.,
24 H.V., E.V., S.J., K.M., M.T., J.P., A.C., D.K. and S. L. contained documentation that students
25 were enrolled in the BSHS and MSAOM programs. However, the student files only included
26 enrollment agreements for the MSAOM program. There were no BSHS enrollment agreements in
27 the student files.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Student Records - Failure to Maintain Previous College Transcripts)**

3 59. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(1) in
4 that Respondent failed to maintain written records and transcripts of any formal education or
5 training pertaining to Student 32H in the student's file as set forth below and in paragraphs 24-51
6 above and incorporated by this reference as though set forth in full herein.

7 60. The BSHS Evaluation Form provided by the whistleblowers showed Student 32H
8 attended Orange Coast College and University of California, Riverside. The BSHS Evaluation
9 Form obtained from the institution indicated the student attended National Taipei University.
10 Since there were no previous college transcripts in the student file, Student 32H's formal
11 education could not be confirmed.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Student Records - Failure to Maintain Documentation of High School Completion)**

14 61. Respondent is subject to disciplinary action under title 5, CCR, section
15 71920(b)(1)(A) in that Respondent failed to maintain documentation of high school completion or
16 equivalency or other documentation establishing the student's ability to do college level work in
17 student files in that none of the 21 student files reviewed (Students 32A through 32U) contained
18 documentation of high school completion or the equivalent, as more fully set forth in paragraphs
19 24-51 above and incorporated by this reference as though set forth herein.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Student Records - Failure to Maintain Documentation of Credits**
22 **Earned at Another Institution)**

23 62. Respondent is subject to disciplinary action under title 5, CCR, section
24 71920(b)(1)(B) in that Respondent failed to maintain records documenting units of credit earned
25 at other institutions that have been accepted and applied by the institution as transfer credits
26 toward the student's completion of an educational program as set forth below and in paragraphs
27 24-51 above and incorporated by this reference as though set forth in full herein.

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1 63. Respondent applied 52 units toward Student 32H's general education units, however
2 the student's file did not contain documentation identifying the source of these units.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Student Records - Failure to Maintain Enrollment Agreements)**

5 64. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(3) in
6 that Respondent failed to maintain BSHS enrollment agreements for Students 32B through 32T in
7 student files as more fully set forth in paragraphs 24-51 above and incorporated by this reference
8 as though set forth herein.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Student Records – Transcripts Failed to Show All Programs Completed)**

11 65. Respondent is subject to disciplinary action under title 5, CCR, section
12 71920(b)(5)(A) in that Respondent failed to maintain student files containing transcripts showing
13 all the courses or other educational programs that were completed, or were attempted but not
14 completed, and the dates of completion or withdrawal, as set forth below and in paragraphs 24-51
15 above and incorporated by this reference as though set forth in full herein.

16 66. Respondent failed to identify the BSHS degrees on the Official Transcripts of ten
17 students, Students 32B, 32E, 32H-32O. Nine of those of ten transcripts were submitted to CAB
18 to qualify for licensure examinations.

19 **TENTH CAUSE FOR DISCIPLINE**

20 **(Student Records - Failure to Maintain Documentation of**
21 **the Total Amount of Money Received from a Student)**

22 67. Respondent is subject to disciplinary action under title 5, CCR, section 71920(b)(9) in
23 that Respondent failed to maintain documentation in the student files showing the total amount of
24 money received from, or on behalf of, the student and the date or dates on which the money was
25 received as set forth below and in paragraphs 24-51 above and incorporated by this reference as
26 though set forth in full herein.

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1 68. Of the 21 student files reviewed, seven of the BSHS students (Students 32C, 32D,
2 32F, 32H, 32I, 32K and 32L) paid Respondent for BSHS diplomas however, the payments were
3 not identified on the students' ledgers.

4 **ELEVENTH CAUSE FOR DISCIPLINE**

5 **(Maintenance of Records)**

6 69. Respondent is subject to disciplinary action under title 5, CCR, section 71930(b)(1)
7 and Code section 94900(b)(1) in that Respondent failed to maintain pertinent student records for a
8 period of 5 years as set forth below and in paragraphs 24-51 above and incorporated by this
9 reference as though set forth in full herein.

10 70. The whistleblowers provided copies of student documents that were missing when
11 Respondent provided the same student files to K.J. on June 18, 2015 and July 9, 2015.

12 71. Respondent failed to maintain required student records such as copies of Academic
13 Records, BSHS Evaluation Forms, BSHS Diplomas, and Transcripts:

14 a. The student files for Student 32I, 32J, 32O and 32P were missing BSHS diplomas.

15 b. The student files for Students 32C, 32D, 32H, 32I, 32J, 32M, 32O, and 32P were
16 missing BSHS Evaluation Forms.

17 c. The student files for Students 32A, 32C, 32G, and 32K were missing Academic
18 Records.

19 d. The student files for Students 32A, 32J, 32L, and 32P were missing Official
20 Transcripts.

21 **TWELFTH CAUSE FOR DISCIPLINE**

22 **(Failure to Provide Access to Student Records)**

23 72. Respondent is subject to disciplinary action under title 5, CCR, section 71930(e) in
24 that Respondent failed to make all records that the institution is required to maintain immediately
25 available for inspection by the Bureau in that on June 18, 2015, Respondent failed to provide
26 access to the Bureau for inspection of ten student files. Respondent stated they were not able to
27 locate the student files for Students 32B, 32C, 32D, 32E, 32F, 32H, 32K, 32L, 32M, and 32N, as
28

1 more fully set forth in paragraphs 24-51 above and incorporated by this reference as though set
2 forth herein.

3 **THIRTEENTH CAUSE FOR DISCIPLINE**

4 **(Making Misleading Change In or Untrue Statements Regarding Student Grades)**

5 73. Respondent is subject to disciplinary action under Code section 94897(j) for making
6 an untrue or misleading change in, or untrue or misleading statement related to, a test score, grade
7 or record of grades, as set forth below and in paragraphs 24-51 above and incorporated by this
8 reference as though set forth in full herein:

9 a. Student 32A – This student had three modified class grades that did not match the
10 student documents provided by the Whistleblowers.

11 b. Student 32L – The 7/29/2013 Official Transcript for this student had a College
12 Algebra class added after the student graduated.

13 **FOURTEENTH CAUSE FOR DISCIPLINE**

14 **(Making Misleading Change In or Untrue Statements In Any Other Required Record)**

15 74. Respondent is subject to disciplinary action under Code section 94897(j)(3) for
16 making an untrue or misleading change in, or untrue or misleading statement in any other required
17 record as set forth below and in paragraphs 24-51 above and incorporated by this reference as
18 though set forth in full herein:

19 a. Student 32A – This student had five modified student records that did not match the
20 student documents provided by the Whistleblowers.

21 b. Students 32C, 32F, and 32L – These students had transfer credits that were increased
22 after the student graduated.

23 c. Seven BSHS student files had BSHS Evaluation Forms that showed an increase in
24 general education units from the forms provided by the whistleblowers. The documents provided
25 by the whistleblowers were missing from the student files.

26 d. Students 32Q, 32R and 32T – These students had the BSHS program titles removed
27 from their Academic Records.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Willfully Falsifying, Destroying or Concealing Documents)**

3 75. Respondent is subject to disciplinary action under Code section 94897(k) for willfully
4 falsifying, destroying, or concealing a document that is required to be maintained as set forth
5 below and in paragraphs 24-51 above and incorporated by this reference as though set forth in full
6 herein.

7 76. Student documents that were provided by the whistleblowers were missing from the
8 student files provided by Respondent to the Bureau Investigators:

9 a. The student files for Students 32I, 32J, 32O, 32P were missing BSHS diplomas.

10 b. The student files for Students 32C, 32D, 32H, 32I, 32J, 32M, 32O and 32P were
11 missing BSHS Evaluation Forms.

12 c. The student files for Students 32A, 32C, 32G, and 32K were missing Academic
13 Records.

14 d. The student files for Students 32A, 32J, 32L and 32P were missing Official
15 Transcripts.

16 **SIXTEENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Disclose Program is Unaccredited)**

18 77. Respondent is subject to disciplinary action under Code section 94897(p)(2) for
19 failing to disclose that a degree program is unaccredited in that Respondent failed to disclose, in
20 writing, that the BSHS program was not an accredited program, as set forth below and in
21 paragraphs 24-51 above and incorporated by this reference as though set forth in full herein.

22 78. The student files for Students 32Q, 32R, 32S and 32T, who enrolled after January,
23 2013,² did not contain BSHS enrollment agreements or the required disclosure notice regarding
24 the lack of BSHS accreditation.

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27 ² Education Code 94897 was amended effective January 1, 2013 to add subdivision (p)(3)
28 that states a student enrolled in an unaccredited institution is not eligible for federal financial aid programs.

1 **SEVENTEENTH CAUSE FOR DISCIPLINE**

2 **(Financial Aid to Ineligible Students)**

3 79. Respondent is subject to disciplinary action under Code section 94897(p)(3) in that
4 Students 32Q, 32R, 32S and 32T, who enrolled in the unaccredited BSHS program after January,
5 2013, received financial aid payments, as more fully set forth in paragraphs 24-51 above and
6 incorporated by this reference as though set forth herein.

7 **EIGHTEENTH CAUSE FOR DISCIPLINE**

8 **(Failure to Maintain Records of Grades Earned by Students in Student Files)**

9 80. Respondent is subject to disciplinary action under Code section 94900(b)(3) in that
10 Respondent failed to maintain a record of grades earned by the student as set forth below and in
11 paragraphs 24-51 above and incorporated by this reference as though set forth in full herein:

12 a. Student 32A – The grades on this student’s October 27, 2014 Academic Record did
13 not match the grades in this student’s June 18, 2015 Official Transcript.

14 b. Student 32L – The Official Transcript printed on July 29, 2013 had class ST131
15 College Algebra added 8 months after this student graduated.

16 **NINETEENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Maintain Institutional Records)**

18 81. Respondent is subject to disciplinary action under Code section 94900.5 in that
19 Respondent failed to maintain institutional records for a period of not less than five years as set
20 forth below and in paragraphs 24-51 above and incorporated by this reference as though set forth
21 in full herein:

22 a. Respondent failed to maintain student High School diplomas or equivalent education
23 documents for Students 32A through 32U.

24 b. Respondent failed to provide and maintain BSHS Enrollment Agreements for
25 Students 32B through 32T.

26 c. Respondent failed to maintain Student 32H’s previous transcripts from other
27 institutions.

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1 d. The documents provided by the whistleblowers for 21 students (Students 32A, 32C,
2 32D, 32G, 32H, 32I, 32J, 32K, 32L, 32M, 32O, and 32P) were not included in the student files
3 provided to the Bureau investigators by Respondent.

4 **TWENTIETH CAUSE FOR DISCIPLINE**

5 **(Compliance Inspection - Language of Enrollment Agreement)**

6 82. Respondent is subject to disciplinary action under Code section 94906 in that the
7 school's enrollment agreement was not written in language that is easily understood as set forth
8 below and in paragraphs 24-51 above and incorporated by this reference as though set forth in full
9 herein Respondent failed to maintain.

10 83. During the compliance inspection on April 19, 2016, Respondent did not have
11 enrollment agreements, catalogs or SPFS in the Chinese and Korean languages when the school
12 recruited and enrolled Chinese- and Korean-speaking students.

13 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

14 **(Compliance Inspection - Failure to Maintain Records)**

15 84. Respondent is subject to disciplinary action under Code section 94900.5, in
16 conjunction with Code section 94900(a), in that Respondent failed to maintain a record of current
17 students enrolled in the BSHS program, as more fully set forth in paragraphs 24-51 above and
18 incorporated by this reference as though set forth herein.

19 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

20 **(Compliance Inspection – Documentation of Performance Data)**

21 85. Respondent is subject to disciplinary action under Code section 94929.7 and title 5,
22 CCR, 74112(m), in that Respondent failed to maintain the information used to substantiate the
23 rates reported in the school's SPFS pursuant to Code sections 94929 and 94929.5 as more fully
24 set forth below and in paragraphs 24-51 above and incorporated by this reference as though set
25 forth herein.

26 86. During the compliance inspection on April 19, 2016, Respondent was unable to
27 provide any backup data to support the school's SPFS.

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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. Revoking or suspending Approval to Operate Number 3004561 issued to South Baylo University, dba South Baylo University School of Oriental Medicine;
2. Ordering South Baylo University, dba South Baylo University School of Oriental Medicine, 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 and Code section 94937(c); and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/16/17



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

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