



**TO:** The Honorable the Members of the Board of Regents

**FROM:** John L. D'Agati *John L. D'Agati*

**SUBJECT:** Transfer of Degree-Confering Authority Based Upon a Change of Ownership or Control of Bryant & Stratton College

**DATE:** October 5, 2017

**AUTHORIZATION(S):** *MaryEllen Elin*

### **SUMMARY**

#### **Issue for Decision (Consent Agenda)**

Should the Board of Regents approve the transfer of degree-conferring authority based upon a change of ownership or control of Bryant & Stratton College?

#### **Reason(s) for Consideration**

Required by State Statute and Regents Rules

#### **Proposed Handling**

This question will come before the full Board at its October 2017 meeting, where it will be voted on and action taken.

#### **Procedural History**

In 1854, Dr. J.C. Bryant opened Bryant & Stratton in Buffalo, New York. In 1971, the New York State Board of Regents awarded degree authority to the College.

#### **Background Information**

##### **Applicable Statute and Regents Rule**

Education Law §224(1)(b) and Regents Rule 3.58(e) require the consent of the Board of Regents to a transfer of the degree-conferring authority of a proprietary college in New York State, through a change in ownership or control of the proprietary college.

Regents Rule 3.58(a)(1) defines change in ownership or control as “merger or consolidation with any corporation; sale, lease, exchange or other disposition of all or substantially all of the assets of the institution; and the transfer of a controlling interest (at least 51 percent) of the stock of a corporation.”

Because the transaction concerning Bryant & Stratton College (as outlined below) will constitute a change in ownership or control of a proprietary college, as defined in Regents Rule 3.58(a), the consent of the Board of Regents to this transaction is required.

### The Proposed Transaction

Prior to 2008, the ownership of Bryant & Stratton stock was as follows:

▪ Bryant & Stratton Limited Partnership (family)	63.4%
▪ Other minority shareholders	36.6%
Total	100.00%

Dr. Bryant H. Prentice, III, Chairman and Chief Executive Officer of the College, and general partner in the Limited Partnership, realized that he did not have an heir who had the desire to appropriately manage the Partnership and its primary asset, the College, or that his personal wealth was sufficient to allow for an orderly succession of leadership and management of the College to ensure a seamless transition of the College for the benefit of its students, faculty and staff. The Board of Directors undertook the process of finding a financial partner and, in 2008, the Bryant & Stratton Limited Partnership and the other minority shareholders sold portions of their stock to Parthenon Capital, a private equity company. This transaction did not result in one single entity having a controlling interest in the College and was not determined to require the Board of Regents approval.

The 2008 transaction resulted in the following stock ownership:

▪ Parthenon Capital (private equity)	49.0%
▪ Bryant & Stratton Limited Partnership (family)	34.4%
▪ Other minority shareholders	16.6%
Total	100.00%

Since 2008, the Limited Partnership has been gradually buying back portions of the stock. The current stock ownership is as follows:

▪ Bryant & Stratton Limited Partnership (family)	45.2%
▪ Parthenon Capital (private equity)	39.8%
▪ Other minority shareholders	15.1%
Total	100.00%

Due to regulations pertaining to the length of time private equity companies can hold investments, Parthenon Capital is seeking to divest its position in the College. In addition, since 2008, Dr. Prentice has found solutions relative to succession and estate planning, and has positioned the Partnership so that it may purchase Parthenon Capital's entire interest in the College. The proposed transaction, anticipated to close on December 1, 2017, would be between shareholders only and would not involve any institutional expenditures by Bryant & Stratton College itself. The proposed transaction would result in the following stock ownership:

▪ Bryant & Stratton Limited Partnership (family)	87.2%
▪ Other minority shareholders	12.8%
▪ Parthenon Capital (private equity)	0%
Total	100.00%

**The College after the Transaction**

Bryant & Stratton College's current operations in New York State include locations in the Rochester, Buffalo, Syracuse and Albany areas. This would not change under the proposed transaction.

Bryant & Stratton College's current Board of Directors is comprised of six individuals: three elected by Parthenon Capital and three by the Limited Partnership. After the proposed transaction, one of the directors, appointed by Parthenon, will step down and be replaced by the President and CEO of the College, Dr. Francis J. Felser. All other current directors will remain on the Board. Future appointments to the Board of Directors would be made by the Limited Partnership as the majority owner.

The College's strategic plan, mission, vision, academic programs and services, finances, faculty, policies and procedures will be the same after the transaction as before. Dr. Felser will remain as President and CEO of the College, as well as serving on the Board of Directors.

**Related Regents Items**

N/A

**Recommendation**

It is recommended that the Board of Regents take the following action at its October 2017 Board of Regents meeting:

VOTED: That, contingent upon the transfer and sale of the membership interests of Bryant & Stratton College to the Bryant and Stratton Limited Liability Partnership, resulting in the Bryant and Stratton Limited Partnership having a controlling interest (87.2%) in Bryant & Stratton College, the Board of Regents consents to the transfer of degree conferring authority of Bryant & Stratton College to the Bryant and Stratton Limited Partnership.

### **Timetable for Implementation**

It is anticipated that the transfer and sale of the stock will occur on or about December 1, 2017. The transfer of degree conferring authority for Bryant & Stratton College will take effect immediately upon the transfer and sale of the membership interests of Bryant & Stratton College to the Bryant and Stratton Limited Liability Partnership.