

**PROPOSED REGULATION OF THE
COMMISSION ON POSTSECONDARY EDUCATION**

LCB File No. R026-00

March 6, 2000

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted

AUTHORITY: §§1-16, NRS 394.411.

Section 1. Chapter 394 of NAC is hereby amended by adding thereto a new section to read as follows:

- 1. An institution may offer an educational unit using distance education if the:*
 - (a) Subject matter of the educational unit is appropriate for delivery by distance;*
 - (b) Institution uses equipment and technology that is adequate to deliver the subject matter by distance;*
 - (c) Institution develops a process that will be followed to deliver the education;*
 - (d) Institution develops a process for the instructor to monitor, throughout the period of instruction, whether a student has attained the objectives of the educational unit;*
 - (e) Institution provides instructors who are qualified to use the equipment and technology that delivers the distance education; and*
 - (f) Institution has developed adequate safeguards for testing that ensure the integrity of the tests and assessments, including, without limitation:*
 - (1) A positive means of identification that ensures the student who is enrolled in the distance education actually participates in the distance education;*

(2) A controlled process by which proctors for the tests are selected, trained and monitored;

(3) A verifiable process to maintain the confidentiality of the test materials; and

(4) A process for the periodic review and evaluation of the safeguards for testing.

FLUSH *An institution that offers distance education shall provide proof to the commission that it has complied with the requirements of this subsection.*

2. As used in this section:

(a) “Distance education” means education, training, courses or programs that are delivered to a student who is geographically separate from the instructor.

(b) “Educational unit” means a component of a training program, including, without limitation, a course, subject, topic, module or block.

Sec. 2. NAC 394.300 is hereby amended to read as follows:

394.300 As used in NAC 394.300 to 394.685, inclusive, unless the context otherwise requires, the words and terms defined in NAC 394.306 to 394.355, inclusive, *and section 1 of this regulation*, and NRS 394.006 to 394.112, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 394.345 is hereby amended to read as follows:

394.345 “Supervised training” means training which is received at an employment setting other than the institution ~~and is~~ *and is* specified and included in the hours required for graduation in the enrollment contract or agreement with the institution . ~~and under the direct supervision and liability of the institution.~~ Supervised training is generally for less than usual employment shifts or periods and taken concurrently with classroom instruction. For the purpose of measuring an

educational program, supervised training has one-third the numerical value of instruction in a classroom.

Sec. 4. NAC 394.358 is hereby amended to read as follows:

394.358 ~~[1.]~~ Except as otherwise provided in ~~[NAC 394.300 to 394.685, inclusive,]~~ **NRS 394.455**, all materials pertaining to any matter to be considered for action by the commission at a regularly scheduled meeting must be delivered to the commission 60 days before the meeting. The materials must be delivered to the office of the commission or mailed to the office and postmarked on or before that date.

~~[2.— The chairman of the commission or the administrator may accept materials relating to an application for a license which are delivered after that date but not later than 45 days before the meeting, if:~~

~~—(a) A licensed institution demonstrates that damage would result from a delay;~~

~~—(b) The commission on economic development certifies that a delay in handling the application may adversely affect the economic development of an area; or~~

~~—(c) A delay would affect an action required by another association or agency which would cause the institution to delay its opening for an unreasonable time.~~

~~—3.— The chairman of the commission will not and the administrator shall not accept an application for consideration at the regularly scheduled meeting if it is submitted later than 45 days before that meeting of the commission.]~~

Sec. 5. NAC 394.365 is hereby amended to read as follows:

394.365 1. If the administrator determines that a person is required to be licensed, he shall notify the person, by certified mail, of every reason that a license is required. If the person required to be licensed believes that the findings of the administrator are in error, he may appeal

the decision to the commission for a hearing at its next meeting. The request for such an appeal must be sent by certified mail and received by the administrator at least ~~{20}~~ 60 days before the next meeting of the commission.

2. If the commission determines that the person is required to be licensed:

(a) The administrator shall notify the person by certified mail, of the reasons for the determination; and

(b) The person must submit an application for a license and receive approval from the commission before enrolling any new student.

Sec. 6. NAC 394.375 is hereby amended to read as follows:

394.375 Any institution licensed by or under the jurisdiction of an agency of government which seeks approval to offer training to veterans or which has been approved for the training of veterans is subject to the regulations of the commission, if the agency of government has no criteria, or where the criteria are less stringent than that of the commission. The regulations of the commission apply to contested cases concerning approval of programs for the training of veterans. Regulations of the United States ~~{Veterans' Administration}~~ *Department of Veterans Affairs* may supersede the commission's regulations and policies when applied to institutions approved for the training of veterans.

Sec. 7. NAC 394.385 is hereby amended to read as follows:

394.385 Any description of a course of study submitted to the administrator must be on forms provided by the commission, and specify:

1. The overall organization of the instructional program;
2. The ~~{goal}~~ *objective* the program is intended to meet;

3. Each educational unit, including its measurable learning objectives, the hours of instruction ~~[or credits,]~~, *the number of credits* and the procedure for evaluating attainment of the objectives;

4. The basic textbooks and instructional equipment to be used in the program; and

5. A brief description of the qualifications of the instructor.

Sec. 8. NAC 394.400 is hereby amended to read as follows:

394.400 ~~[1.—A facility or plans]~~ *Before a license to operate an institution is issued, each facility used by the institution* must be *inspected and* approved by the commission or its administrator for conformity with acceptable educational standards and specifications and for compliance with all regulatory requirements as specified in NRS 394.450 . ~~[, before issuance of a provisional license to operate a private postsecondary educational institution.~~

~~—2.—The commission will inspect a facility:~~

~~—(a) Before issuance of a license, other than a provisional license.~~

~~—(b) Each time a facility is added by an institution.]~~

Sec. 9. NAC 394.405 is hereby amended to read as follows:

394.405 1. Each applicant for a license ~~[, renewal of a license,]~~ or change of ownership must submit a certified financial statement which contains the information set forth in subsection 2 as evidence of his financial stability. The financial statement must be prepared within 12 months before the date of application and must be ~~]:~~

~~—(a) On a form provided by the commission;~~

~~—(b) A financial statement]~~ audited *or reviewed* by a certified public accountant . ~~];~~

~~—(c) A balance sheet prepared according to generally accepted procedures of accounting; or~~

~~—(d) A copy of the appropriate federal income tax form.]~~

2. The financial statement must contain:
- (a) A statement of the source of all investment capital received;
 - (b) A statement of the disposition of ~~[this]~~ *the* investment capital , identified by the recipient and amount received, purpose of expenditure or use, balance, if any, and place of deposit;
 - (c) A current inventory of the assets received, identified by recipient and amount received, purpose of expenditure or use;
 - (d) A statement of liabilities as of the date of the application , including accounts payable, loans and notes payable, and any other financial obligations of the school; and
 - (e) A statement of obligations attendant to land purchase agreements, land sales contracts, lease agreements on land, and similar contracts involving acquisition of books, equipment, buildings, and furnishings for buildings.

3. Applicants for renewal of an institutional license must submit *a certified financial statement containing* the items set forth in ~~[paragraphs (c) and (d) of subsection 2.]~~ *subsection 2 prepared in accordance with generally accepted accounting principles.*

10. NAC 394.435 is hereby amended to read as follows:

394.435 1. All applications must be typed and submitted to the administrator on forms provided by the commission.

2. Once the application has been reviewed and all necessary revisions have been made, and the administrator finds it to be complete, he shall advise the applicant of the number of copies of each document required for review by the commission at their next regularly scheduled meeting ~~[-The applicant shall supply sufficient copies of the completed application to the commission. The copies must be submitted to the administrator at least 20 days before the date of the next meeting of the commission.]~~ *and the deadline by which the copies must be submitted.*

3. An agenda will be sent to the applicant by certified mail at least 10 days before the meeting of the commission indicating the time and place of the meeting with a copy of the administrator's report on the application, including his recommendation for action by the commission. The applicant or his representative must attend the meeting of the commission to respond to inquiries of the commissioners relative to the application.

Sec. 11. NAC 394.480 is hereby amended to read as follows:

394.480 1. ~~{The president, chancellor, director, or academic vice president of a degree-granting institution which has been authorized to use the term "university" must have and}~~ *Each institution shall* submit to the commission evidence ~~{of:~~

~~—(a) An earned degree at the doctoral level from an accredited university or college or equivalent qualifications as determined by the commission; and~~

~~—(b) At}~~ *that it has a full-time director who:*

(a) Resides in this state;

(b) Demonstrates knowledge of chapter 394 of NRS and chapter 394 of NAC;

(c) Is responsible for the daily operation of the institution; and

(d) For an institution that:

(1) Grants degrees, has at least 2 years of experience in an administrative position in an accredited institution of higher education.

(2) Does not grant degrees, has at least 2 years of managerial experience or at least 2 years of managerial experience and training.

FLUSH *The evidence submitted to the commission must include the name and qualifications of each person who is employed pursuant to this subsection.*

2. ~~[The president, chancellor, director, or academic vice president of a degree-granting institution which has been granted the use of the term “college” must have and]~~ ***Each institution shall*** submit to the commission evidence ~~[of:~~

~~—(a) An earned degree at the master’s level from an accredited university or college or equivalent qualifications as determined by the commission; and~~

~~—(b) At least 2 years of experience in an administrative position in an accredited postsecondary educational institution.~~

~~—3. The director of instruction of an institution which does not grant degrees must have and submit to the commission evidence of:~~

~~—(a) A bachelor’s degree from an accredited university or college or equivalent qualifications as determined by the commission; or~~

~~—(b) His qualifications to instruct courses given in that institution.~~

~~—4. Unless otherwise approved by the commission, the person responsible for the institution’s operations in Nevada must reside in Nevada.]~~

that it has, for each program authorized by the commission, an academic director who is:

(a) Responsible for the development, accuracy and applicability of the program; and

(b) Qualified pursuant to NAC 394.485 to provide instruction in the program.

FLUSH ***The evidence submitted to the commission must include the name and qualifications of each person who is employed pursuant to this subsection.***

Sec. 12. NAC 394.485 is hereby amended to read as follows:

394.485 1. In a degree-granting institution:

(a) ~~[At least 60 percent of each]~~ ***Each*** undergraduate course must be taught by an instructor who possesses ~~[:~~

~~—(1) A] a bachelor's degree from an accredited university or college [; or~~

~~—(2) The skill and expertise which is equivalent to that of a person who holds a bachelor's degree.~~

~~—(b) At least 60 percent of each graduate] in a field related to the subject matter that the instructor is assigned to teach.~~

(b) *Each master level* course must be taught by an instructor who possesses [;

~~—(1) A] a master's degree from an accredited university or college [; or~~

~~—(2) The skill and expertise which is equivalent to that of a person who holds a master's degree.] in a field related to the subject matter that the instructor is assigned to teach.~~

(c) *Each doctorate level course must be taught by an instructor who possesses a doctorate degree from an accredited university or college in a field related to the subject matter that the instructor is assigned to teach.*

2. In an institution that does not grant a degree or that offers technical courses at the associate level, ~~[60 percent of]~~ each course must be taught by an instructor who:

(a) Holds a valid and appropriate teaching license issued by the department of education;

(b) Teaches in that field in the University and Community College System of Nevada or another degree-granting institution; or

(c) Has a high school diploma or the equivalent and 2 years of verified work or teaching experience in the subject to be taught.

3. ~~[To determine whether an instructor has the skill and expertise which is equivalent to that of a person who has a bachelor's or master's degree:~~

~~—(a) Two hundred fifty hours of training;~~

~~—(b) Two thousand hours of part-time employment; or~~

FLUSH

~~—(c) One year of full-time employment, in a related field, shall be deemed equivalent to 16 semester hours of credit earned from an accredited university or college.~~

~~—4.—~~ Each institution shall maintain at least one of the following records to verify that each instructor is qualified to teach the course assigned to him:

- (a) Transcripts used by the instructor to establish his qualifications.
- (b) A description ~~[, signed by each previous employer, of all]~~ *of the* previous employment

~~[and its duration.]~~ *of the instructor that:*

- (1) Sets forth the actual duties performed by the instructor during his employment;*
- (2) Indicates the duration of employment; and*
- (3) Is signed by the previous employer.*

(c) An affidavit in which the employee swears that an employer is not able to be contacted and that the description of the employment and its duration are true.

(d) A copy of a teaching license issued by the department of education.

(e) Tax records or an affidavit clearly showing self-employment in the field and education necessary to instruct that portion of the course to which he is assigned.

Sec. 13. NAC 394.490 is hereby amended to read as follows:

394.490 1. A substitute instructor ~~[is one who teaches]~~ *may teach any* part of a course ~~[but is not responsible for the teaching of the course or the grading of the students. He is not required to hold a degree, certificate, or endorsement. He]~~ *in the absence of the regular instructor. A substitute instructor* must possess the ~~[skill, expertise, and education necessary to instruct that portion of the course to which he is assigned.~~

~~—2.— Such instructor may not instruct more than 40 percent of a course or be responsible for giving the final grade or certifying completion.] same qualifications as are required of a regular instructor pursuant to NAC 394.485.~~

2. An institution shall ensure that a substitute instructor is provided if the regular instructor for a course is unable to complete the scheduled training.

Sec. 14. NAC 394.590 is hereby amended to read as follows:

394.590 1. The promotional materials of an institution must not:

(a) Use any name, label, or insigne which is likely to be misleading or deceptive with respect to the true nature and operation of the institution.

(b) Use a name or other description to indicate falsely that it is a part of a state or the Federal Government.

(c) Represent that it is an employment agency or authorized training facility for another industry so as to conceal the fact that it is an institution.

(d) Falsely represent that any of its programs are accredited.

(e) Represent that students completing a course or program of instruction may transfer credit to an accredited institution of higher education unless the institution can document that the credit is transferable.

(f) Misrepresent the size, reputation, location, facilities, or equipment of the institution through the use of photographs, illustrations, written or oral descriptions, or any other depictions.

(g) Use quantitative superlatives, such as biggest, largest, or highest placement rate, in its advertising unless the terms are qualified in the advertisement itself and the institution has, in its possession, evidence to support its claim.

(h) Misrepresent the nature or effectiveness of any course, equipment, or methods of training.

- (i) Misrepresent the qualifications, training, or experience of its faculty or personnel.
- (j) Falsely represent that it will provide or arrange for full- or part-time employment while the student is undergoing instruction.
- (k) Falsely represent that only those who make an acceptable grade or complete successfully a certain test will be admitted.
- (l) Falsely represent that applications for enrollment will be considered for only a limited period of time or that they must be submitted by a certain date.
- (m) Solicit students by means of listings under captions, such as “wanted to train for,” “help wanted,” “employment,” “business opportunities,” or by words or terms of similar import, which represent directly or by implication that employment is being offered.
- (n) Fail to include the full name and address of the institution and disclose the fact that it is an institution if it is not apparent from its name.
- (o) Falsely represent that a course or courses may be taken for a specified price, or at a saving, or at a reduced price, or otherwise deceive students or prospective students with respect to the cost of a course or any equipment, books, or supplies associated with the course.
- (p) Falsely represent that it owns, operates, supervises, or has access to a dormitory, eating, or other living accommodations.
- (q) Represent that a student who attends the institution can expect a certain level of compensation in his future career or employment.*
- (r) If the institution operates solely as a correspondence school, distance education school or home study school, fail to include a clear and conspicuous disclosure in immediate conjunction with its trade or business name which discloses that it is a correspondence school, distance education school or home study school, as applicable.*

2. For the purposes of this section, the term “promotional materials” includes documents for advertising, soliciting, or public information, such as:

- (a) Advertisements for newspaper, radio, and television;
- (b) Broadcasting or public address announcements;
- (c) Brochures, catalogs, mailings, or flyers;
- (d) Announcements on bulletin boards and variety advertisers; ~~[and]~~
- (e) Telephone directories ~~[]~~; *and*
- (f) *The Internet, web pages and electronic bulletin boards.*

Sec. 15. NAC 394.655 is hereby amended to read as follows:

394.655 1. A massage school shall not operate in the same facility or on the same premises as an establishment that offers massage to members of the public for a fee ~~[]~~

~~—2.— Massage performed on members of the public at a massage school must be included as part of the curriculum at the school. A student may] unless:~~

- (a) *All areas that are occupied by the students of the massage school, including, without limitation, lecture rooms, break rooms, rest rooms and training areas are completely partitioned and isolated from the establishment that offers massage;*
- (b) *The massage school has a separate entrance;*
- (c) *The massage school is clearly and conspicuously marked as a massage school; and*
- (d) *The only business conducted at the massage school is business that is directly related to the educational process.*

2. *A massage school may operate a clinic in which students* perform massage on members of the general public if:

- (a) The school maintains adequate liability insurance for the term of its license;

(b) Before a massage is performed, the school obtains from the person who will receive the massage a written statement signed by the person that he knows that the massage will be performed by a student;

(c) The student has successfully completed instruction in:

(1) Anatomy and physiology;

(2) Massage therapy;

(3) Hygiene and first aid;

(4) Law and ethics; and

(5) At least 25 hours of actual massage training on other students or members of the staff of the school;

(d) The student is readily identifiable as a student to a person who will receive a massage; and

(e) Each massage is performed under the direct supervision of an instructor:

(1) On the premises of the massage school approved for massage training;

(2) At a public event; or

(3) In a licensed medical facility.

3. The school must have a licensed physician who practices in the immediate vicinity as a consultant to the school staff.

4. A massage school shall not:

(a) Enroll a student who is less than 18 years of age;

(b) Issue educational credentials to any person who is less than 18 years of age; or

(c) Allow a student to perform massage in a hotel room, motel room, or a private residence.

Sec. 16. NAC 394.505 and 394.595 are hereby repealed.

TEXT OF REPEALED SECTIONS

394.505 Alternate instructors. An institution shall provide a qualified alternate instructor to replace the regular instructor if the regular instructor is not able to fulfill his commitment.

394.595 Correspondence and home study schools: Disclosure. If a postsecondary educational institution conducts its instruction wholly by correspondence or home study, a clear and conspicuous disclosure must be made in immediate conjunction with its trade or business name that it is a correspondence or home study school.