

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

**LCB File No. R134-05**

§§1-8, inclusive, and 10 effective November 17, 2005  
§9 effective July 1, 2007

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

AUTHORITY: §§1-5 and 7-10, section 10 of Senate Bill No. 457 of the 73rd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2005, at page 2684; §6, NRS 179A.075, 239B.010 and section 10 of Senate Bill No. 457 of the 73rd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2005, at page 2684.

A REGULATION relating to alcoholic beverage awareness programs; prescribing the requirements for certification of a program; prescribing the requirements for instructors of certified programs; providing for the issuance of an alcohol education card to persons who complete a certified program; prescribing provisions governing the Alcoholic Beverage Awareness Program Account; and providing other matters properly relating thereto.

**Section 1.** Chapter 394 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Alcoholic beverage awareness program” has the meaning ascribed to it in section 6 of Senate Bill No. 457 of the 73rd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2005, at page 2683.*

**Sec. 4.** *“Certified program” means an alcoholic beverage awareness program that is certified by the Administrator pursuant to section 5 of this regulation.*

**Sec. 5. 1.** *An applicant for certification of an alcoholic beverage awareness program pursuant to section 10 of Senate Bill No. 457 of the 73rd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2005, at page 2684, must submit to the Administrator:*

*(a) Evidence satisfactory to the Administrator that each instructor for the program satisfies the requirements of section 6 of this regulation; and*

*(b) A complete copy of the curriculum for the program, which must include, without limitation:*

- (1) One hour in the clinical effects of alcohol on the human body;*
- (2) Thirty minutes in the methods of identifying intoxicated persons;*
- (3) Thirty minutes in the methods of discontinuing the service of alcoholic beverages to persons who are identified as intoxicated;*
- (4) Thirty minutes in the applicable state and local laws concerning the selling and serving of alcoholic beverages;*
- (5) Thirty minutes in the methods of preventing and halting fights, acts of affray and other disturbances of the peace;*
- (6) Thirty minutes in the methods of preventing:*
  - (I) The entry of minors into establishments in which minors are prohibited from loitering pursuant to NRS 202.030;*
  - (II) The purchase, consumption and possession of alcoholic beverages by minors as prohibited by NRS 202.020, including, without limitation, the recognition of altered or falsified forms of identification; and*
  - (III) The selling and furnishing of alcoholic beverages to minors as prohibited by NRS 202.055; and*

*(7) A comprehensive closed-book final examination that contains questions on the subject matter identified in subparagraphs (1) to (6), inclusive.*

*↳ In addition to the requirements of this paragraph, the curriculum for a program may include any other information pertinent to alcoholic beverage awareness.*

*2. In addition to the requirements of subsection 1, if an alcoholic beverage awareness program will be offered through distance education, the applicant must submit to the Administrator evidence satisfactory to the Administrator that:*

*(a) The program complies with NAC 394.521; and*

*(b) The examination required by subparagraph (7) of paragraph (b) of subsection 1 is proctored by the provider of the program or otherwise proctored by a person or entity approved by the Administrator.*

*Sec. 6. 1. Each instructor for a certified program must have a high school diploma or the equivalent and 2 years of verified work or teaching experience in the subject for which he provides instruction. If an instructor for a certified program is replaced after the program is certified, the provider of the program shall:*

*(a) Submit to the Administrator:*

*(1) The name of the new instructor; and*

*(2) Evidence satisfactory to the Administrator that the new instructor satisfies the requirements of this subsection; and*

*(b) Ensure that the new instructor complies with subsection 2 before he provides instruction for the program.*

*2. Before a person may provide instruction for a certified program, he must submit to the Administrator a complete set of his fingerprints and written permission authorizing the*

*Administrator to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may authorize a person to provide instruction for a certified program pending receipt of the report of the Federal Bureau of Investigation if the Administrator determines that the instructor is otherwise qualified pursuant to subsection 1.*

*3. If the criminal history of a person received by the Administrator pursuant to subsection 2 indicates that the person has been convicted of a felony or a crime involving moral turpitude, the Administrator shall request the person to submit an explanation of the conviction. The Administrator shall:*

*(a) Notify the provider of the certified program that intends to employ the person as an instructor of the conviction; and*

*(b) Request that the provider of the certified program submit to the Administrator a request to employ the person as an instructor regardless of the conviction, accompanied by a letter of support to employ the person as an instructor.*

*4. If the Administrator receives a request to employ a person as an instructor for a certified program regardless of a conviction and the conviction of the person on whose behalf the request is made occurred within the immediately preceding 10 years, the Commission will consider the request for employment at its next regularly scheduled meeting. Except as otherwise provided in NRS 241.030, the Commission will consider the request during a closed session of that meeting and will vote upon the request during an open meeting.*

*5. If the Administrator receives a request to employ a person as an instructor for a certified program regardless of a conviction and the conviction of the person on whose behalf the request is made occurred more than 10 years before the date on which the request is*

*received, the Administrator shall approve or disapprove of the request for employment. If the Administrator denies the request, the provider of the certified program may request a hearing before the Commission.*

**Sec. 7.** *A provider of a certified program shall prohibit:*

- 1. An enrollee in the program from attending if the enrollee is intoxicated; and*
- 2. The consumption of alcoholic beverages on the premises where the program is offered.*

**Sec. 8.** *1. A provider of a certified program shall issue an alcohol education card to each person who successfully completes the program. Successful completion of the program includes, without limitation, receiving a raw score of 75 percent on the final examination in each subject matter that is identified in subparagraphs (1) to (6), inclusive, of paragraph (b) of subsection 1 of section 5 of this regulation.*

*2. Each alcohol education card issued as part of a certified program must:*

- (a) Be in a format prescribed by the Administrator;*
- (b) Consist entirely of plastic or a similar material that is difficult to duplicate or alter; and*
- (c) Include the following information:*
  - (1) The name of the person to whom the card is issued;*
  - (2) The name of the provider of the certified program;*
  - (3) A unique identification number;*
  - (4) The date of issuance; and*
  - (5) The date of expiration.*

*3. Each provider of a certified program shall maintain a list of persons to whom a card is issued pursuant to this section.*

*Sec. 9. 1. Except as otherwise provided in this subsection, an employee of an establishment who successfully completes a certified program and who holds a valid alcohol education card may submit an application for reimbursement of the tuition for the program from the Alcoholic Beverage Awareness Program Account created by section 9 of Senate Bill No. 457 of the 73rd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2005, at page 2683. The application must be on a form prescribed by the Administrator and accompanied by a receipt indicating the cost of the tuition. An employee may not submit an application if he has received a full or partial reimbursement from the Account within the immediately preceding 4 years.*

*2. The Administrator shall provide the form for reimbursement to each provider of a certified program. Each provider of a certified program shall distribute the form to employees who successfully complete the program.*

*3. To the extent money is available in the Alcoholic Beverage Awareness Program Account, the Administrator shall use the money in the Account to reimburse the tuition for employees who submit an application pursuant to this section. Except as otherwise provided in subsection 4, completed applications will be considered by the Administrator in the order in which they are received, as indicated by a dated stamp of receipt made by the Administrator or his designee. If a sufficient amount of money is not available in the Account to pay a full reimbursement, the Administrator may make a partial reimbursement.*

*4. If a sufficient amount of money is not available in the Account to pay a full or partial reimbursement within 30 days after the application is received, the application is void and the applicant may not submit another application for reimbursement of the same tuition connected with the voided application.*

*5. The existence of the Alcoholic Beverage Awareness Program Account does not create a right in any person to receive money from the Account.*

*6. Payment will not be made from the Alcoholic Beverage Awareness Program Account if the amount of money in the Account is equal to or less than two times the amount of annual fees charged to maintain the Account.*

*7. As used in this section:*

*(a) "Employee" means an employee of an establishment.*

*(b) "Establishment" has the meaning ascribed to it in section 8 of Senate Bill No. 457 of the 73rd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2005, at page 2683.*

*(c) "Valid alcohol education card" has the meaning ascribed to it in section 9 of Senate Bill No. 457 of the 73rd Session of the Nevada Legislature, chapter 497, Statutes of Nevada 2005, at page 2683.*

**Sec. 10.** 1. This section and sections 1 to 8, inclusive, of this regulation become effective on November 17, 2005.

2. Section 9 of this regulation becomes effective on July 1, 2007.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R134-05**

The Commission on Postsecondary Education adopted regulations assigned LCB File No. R134-05 which pertain to chapter 394 of the Nevada Administrative Code on November 2, 2005.

**Notice date:** 8/19/2005  
**Hearing date:** 11/2/2005

**Date of adoption by agency:** 11/2/2005  
**Filing date:** 11/17/2005

**INFORMATIONAL STATEMENT**

1. Public comment was solicited by sending the notice of public workshop and hearing directly to individuals who have requested to be so notified and to those business likely to be affected. Additionally, notice of both the workshop and hearing were duly posted at all county libraries as well as other government facilities (see attached hearing notice for posting locations). There was no response from the public.

Copies of all documents relating to the adoption of these regulations can be obtained by contacting the Commission on Postsecondary Education, 1820 East Sahara Avenue, Suite 111, Las Vegas, Nevada, 89104; calling 702-486-7330; or, sending a request via facsimile to 702-486-7340, or sending an email request to [dperlman@cpe.state.nv.us](mailto:dperlman@cpe.state.nv.us).

2. Three individuals attended the September 8, 2005, public workshop.  
Six individuals attended the October 19, 2005, public workshop.  
Nineteen individuals attended the November 2, 2005, hearing, seven specifically for the hearing.  
Five individuals testified during the November 2, 2005, hearing.  
Four individuals submitted written statements.
3. Comments from affected business was solicited by sending the notice of public workshop and hearing to adopt to affected businesses. The businesses were generally divided on the following issues:
  - a. Proctoring of tests for online training.
  - b. Need for photo on the certification card.
  - c. Need for closed book rather than open book final examination

Other comments included the need to add 30 minutes of training on the discontinuance of serving alcohol to an individual identified as intoxicated; disallowing any intoxicated person in a class, ensuring no alcohol is available on the premises of a school and a time limit for retesting of students who fail.

Written response from one out-of-state business was received requesting the elimination of one segment of training, the need for photos on the completion card and the need to provide graduates with a CPE-reimbursement form. Copies of all documents relating to the adoption of these regulations can be obtained by contacting the Commission on Postsecondary



Education, 1820 E Sahara Av, Ste 111, Las Vegas, Nevada, 89104; calling 702-486-7330; or, sending a request via facsimile to 702-486-7340.

4. The regulation was not adopted as submitted. The Commission added the following requirements to the regulations:
  - a. Tests for online training must be proctored;
  - b. No intoxicated individual may attend training;
  - c. No alcohol may be consumed or present during class;
  - d. Closed book test required for final examinations;
  - e. Add 30 minutes of training in the methods of discontinuing serving alcohol to an individual identified as intoxicated;
  - f. Require 75% raw score to pass final examination.
5. The estimated economic effect of these regulations on affected businesses include:
  - a. Adverse effects include the cost to procure equipment capable of making a solid plastic (not laminated) certification card and the cost for background investigation of instructors.
  - b. No beneficial effect is known at this time.
  - c. Immediate short-term effect will be the cost to procure equipment of making a solid plastic certification card.
  - d. The long-term effect will be the continuing need for background investigations of instructors as they are hired.
  - e. There is no economic impact on the public, either adverse or beneficial, immediate or long term.
6. Estimated costs are for the time develop applications, review and certify curriculum and perform periodic reviews of training providers. See attached spreadsheet.
7. The regulation currently duplicate those of Clark County, however, SB 457 revokes the rights of all municipalities to have any requirements for alcohol awareness training.
8. There are no federal regulations similar to those adopted by the Commission.
9. No fees are mandated by the adopted regulations.