

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

LCB File No. R042-11

February 29, 2012

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

AUTHORITY: §§1-3, 11 and 20, NRS 394.411; §4, NRS 394.411, 394.421, 394.441, 394.445, 394.450, 394.460 and 394.480; §§5, 6, 10, 14 and 15, NRS 394.411 and 394.421; §§7, 12 and 13, NRS 394.411 and 394.460; §8, NRS 394.411, 394.445 and 394.460; §9, NRS 394.411, 394.445, 394.460 and 394.480; §16, NRS 394.411 and 394.625; §17, NRS 394.411, 394.421 and 394.445; §18, NRS 394.411, 394.421, 394.441 and 394.520; §19, NRS 394.411 and 394.510; §§21 and 22, NRS 369.625 and 394.411.

A REGULATION relating to postsecondary education; repealing, reorganizing and readopting certain provisions concerning the licensure of private postsecondary educational institutions; repealing certain provisions concerning programs of alcoholic beverage awareness; repealing certain unnecessary definitions; making various substantive changes; 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 10, inclusive, of this regulation.

Sec. 2. *“Distance education” means education, training, courses or programs that are delivered to a student who is geographically separate from the instructor.*

Sec. 3. *“Educational unit” means a component of a training program, including, without limitation, a course, subject, topic, module or block.*

Sec. 4. *A person who wishes to obtain a provisional license to operate a private postsecondary educational institution must submit to the Administrator an application that includes, without limitation:*

1. A description of each program of instruction leading to an academic, professional or vocational goal that the applicant intends to offer. The description must include, without limitation:

(a) The overall organization of the program;

(b) The objective the program is intended to meet;

(c) Each educational unit of the program, including its measurable learning objectives, the hours of instruction, the number of credits and the procedure for evaluating attainment of the objectives;

(d) Proof of compliance with the requirements of NAC 394.521 for each educational unit of the program that is to be offered using distance education;

(e) The basic textbooks and instructional equipment to be used in the program;

(f) A brief description of the qualifications of the instructors in the program; and

(g) A copy of the certificate of completion or diploma to be awarded upon completion of or graduation from the program of instruction. A certificate of completion or diploma must include, or provide spaces to include, without limitation:

(1) The title of the program;

(2) The date of completion of the program; and

(3) Unless completion of the program entitles a student to receive an academic degree, the minimum number of hours of instruction or credits required for the completion of the program.

2. A certified financial statement that provides evidence of the applicant's financial stability. The financial statement must:

(a) Be prepared not more than 12 months before the date of the application;

(b) Be audited or reviewed by a certified public accountant; and

(c) Include, without limitation:

(1) A statement of the source of all investment capital received by the applicant;

(2) A statement of the disposition of the investment capital, identified by the recipient and amount received, purpose of expenditure or use, balance, if any, and place of deposit;

(3) A current inventory of the assets received, identified by the source and amount received, and the purpose of expenditure or use;

(4) 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 applicant; and

(5) A statement of obligations attendant to land purchase agreements, land sales contracts, lease agreements on land and similar contracts involving the acquisition of books, equipment, buildings and furnishings for buildings.

3. An affidavit or power of attorney to the Commission or its staff to substantiate the specific information contained in the financial statement submitted by the applicant.

4. A proposed budget for all operations of the institution by the applicant during its first 12 months of operation. The proposed budget must include, without limitation:

(a) Cash on hand at the beginning of the year;

(b) Anticipated income for the year, identified by source and amount;

(c) Anticipated loans, investments and other monetary assets, identified by source and amount; and

(d) Anticipated expenditures, including, without limitation:

(1) A list of all administrative personnel by name, position and proposed compensation, including, without limitation, the amount of each person's salary and the value of any living

quarters, automobile allowance and other consideration to be furnished to the person by the applicant;

(2) An estimate of the aggregate amount of money to be expended for salaries for instructional personnel and a statement that sets forth the total number of instructional personnel actually under contract or anticipated to be under contract;

(3) An estimate of the amount of money to be expended for textbooks, library services and other expenses of instruction; and

(4) A list of proposed expenditures by category for:

(I) Facilities;

(II) Equipment and maintenance;

(III) Supplies;

(IV) Books, other than textbooks;

(V) Services for students;

(VI) Services for the community;

(VII) Advertising;

(VIII) Transportation; and

(IX) Insurance.

5. A copy of the contract or enrollment agreement to be used by the applicant which includes, or provides spaces to include, without limitation:

(a) The name of the institution to be operated by the applicant, its address and telephone number;

(b) The name of the student, his or her address and telephone number;

(c) The title of the program or course in which the student is enrolled;

- (d) The effective date of the catalog under which the student is enrolled;*
 - (e) The policy of the applicant on granting credit for previous training or experience and, if granted, the provisions for reductions in the cost or length of the program or course;*
 - (f) A statement printed in bold type stating that the person signing the contract or enrollment agreement has received, read and understood the document, has received the catalog of the applicant and understands that the catalog is part of the contract or enrollment agreement; and*
 - (g) If the student is enrolled in a program that does not entitle the student to receive an academic degree:
 - (1) The minimum number of hours of instruction or credits of each course in the program and the date upon which each course begins;*
 - (2) The schedule of payment and total cost of each course; and*
 - (3) A disclaimer by the applicant, printed in bold type, stating that placement in a job is not guaranteed or promised to persons who complete the program.**
- 6. A copy of the catalog or brochure to be provided to students. In addition to the information required by NRS 394.441, the catalog or brochure must include, without limitation:*
- (a) Information to identify the catalog or brochure, including the date the publication is effective;*
 - (b) The name of the applicant and its governing body, officials and faculty;*
 - (c) A calendar showing business hours, legal holidays, beginning and ending date of each established term or course of study, and other important dates;*

(d) The policy and regulations of the applicant concerning enrollment, including requirements for admission and specific requirements for entrance into each course and any deadlines for enrollment;

(e) The policy and regulations of the applicant concerning the standards of progress required of a student by the applicant, including, without limitation:

(1) A definition of the grading system of the applicant and the minimum grade considered satisfactory;

(2) A statement of the conditions for interruption of the program of a student for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the applicant; and

(3) A statement of the conditions of readmission for those students dismissed for unsatisfactory progress;

(f) The policy and regulations of the applicant concerning leave, absences, a class missed without an excuse, makeup work, tardiness and interruptions for unsatisfactory attendance;

(g) The policy and regulations of the applicant concerning the discipline of students and conditions for dismissal for unsatisfactory conduct;

(h) The policy and regulations of the applicant concerning any charges if a student does not enter the course, withdraws or is discontinued from the course;

(i) A description of the available space, facilities and equipment;

(j) The policy and regulations of the applicant concerning granting credit for previous education and training;

(k) A detailed description of the extent and nature of any service or assistance in the placement of its graduates which the applicant represents that it provides; and

(l) A statement describing the status of the applicant's license and accreditation.

7. Plans, blueprints or line drawings which describe in detail the facilities in which the applicant will operate.

8. A copy of any lease or contract for the use of a facility in which the applicant will conduct instruction or store records. The lease or contract must be signed by both parties and set forth the terms and conditions for the use of the facility.

9. A statement signed by the owner or an appropriate officer of the applicant stating that enrollment in the institution operated by the applicant is open to all persons who meet entrance requirements, regardless of age, race, color, religion, national origin, disability, sex, sexual orientation, or gender identity or expression. The statement must be notarized.

10. If the applicant will operate the institution under an assumed or fictitious name, a certified copy of the certificate filed by the applicant pursuant to NRS 602.010, with the county clerk of each county in which the institution will be operated under that name.

Sec. 5. 1. *An applicant for approval of a program of instruction in gaming must include with the application proof that the proposed curriculum:*

(a) Provides instruction that is adequate for employment in casinos as determined by the State Gaming Control Board; and

(b) Limits lecturing or classroom instruction to not more than 50 percent of the program.

2. The Commission will not approve a program of instruction in gaming that is to be delivered using distance education.

Sec. 6. 1. *An applicant for approval of a program of instruction in massage must include with the application proof that:*

(a) The program satisfies the requirements established by the Board of Massage Therapists pursuant to NRS 640C.400, and any regulations adopted pursuant thereto, to be recognized as a program of massage therapy by the Board.

(b) The policies of the applicant prohibit the applicant from:

- (1) Enrolling a student who is less than 18 years of age;*
- (2) Issuing educational credentials to any person who is less than 18 years of age; and*
- (3) Allowing a student to enroll in an advanced program of instruction in massage*

unless the student submits proof that he or she has:

- (I) Successfully completed a basic program of instruction in massage; or*
- (II) At least 2 consecutive years of experience in the practice of massage.*

(c) The policies of the applicant prohibit a student from performing practice massage on a person unless:

- (1) The performance of practice massage is included in the program of instruction;*
- (2) The student performs the practice massage under the direct supervision of an*

instructor:

- (I) On the premises of the applicant;*
- (II) At a public event; or*
- (III) In a licensed medical facility; and*

(3) If the practice massage is performed on a person other than a student or member of the staff of the applicant:

(I) The student has successfully completed approved courses of instruction in anatomy and physiology, massage therapy, hygiene and first aid, law and ethics, and at least

25 hours of actual massage training on other students or members of the staff of the applicant;

(II) The student is readily identifiable as a student to the person;

(III) Before the student performs the practice massage, the applicant obtains a written statement signed by the person acknowledging that he or she knows that the massage is to be performed by a student; and

(IV) The applicant has obtained adequate liability insurance for the term of its license.

2. The Commission will not approve a program of instruction in massage that is to be delivered using distance education.

Sec. 7. 1. *Upon receipt of an application for a provisional license submitted pursuant to section 4 of this regulation, the Administrator shall review the application and:*

(a) If the application is complete, place the application on the agenda for the first regular meeting of the Commission that is scheduled to be held 60 days or more after the receipt of the application; or

(b) If the application is incomplete, notify the applicant of each deficiency. The Administrator may place an incomplete application on the agenda for a regular meeting of the Commission that is scheduled to be held 60 days or more after the receipt of the application if the Administrator determines that the deficiency in the application is minor or its resolution is a matter of routine.

2. Not less than 10 days before the meeting of the Commission at which an application for a provisional license is to be considered, the Administrator shall provide notice to the applicant. The notice must include, without limitation:

(a) The date, time and place of the meeting; and

(b) The number of copies of the application and any supporting documentation that the applicant must provide to the Commission before the meeting.

3. An applicant or a qualified representative of the applicant must attend the meeting of the Commission at which the application is to be considered to respond to any inquiries of the members of the Commission regarding the application. If the applicant or qualified representative fails to attend the meeting, further consideration or action on the application will be postponed until a subsequent meeting.

4. Following its consideration of an application for a provisional license, the Commission will:

(a) Grant a provisional license to the applicant;

(b) If the applicant has not satisfied all requirements for licensure, grant a provisional license to the applicant that is contingent upon the satisfaction of certain requirements;

(c) Postpone further consideration or action on the application until a subsequent meeting of the Commission; or

(d) Deny licensure.

5. If the Commission grants a provisional license to an applicant:

(a) Pursuant to paragraph (a) of subsection 4, the Administrator shall issue the provisional license as soon as practicable after it is granted; or

(b) Pursuant to paragraph (b) of subsection 4, the Administrator shall issue the provisional license as soon as practicable after the Administrator determines that the applicant has satisfied all contingent requirements.

↪ *A provisional license granted by the Commission becomes effective on the date that it is issued by the Administrator. An applicant shall not conduct operations pursuant to a provisional license before its issuance.*

6. The grant of a provisional license that, pursuant to paragraph (b) of subsection 4, is contingent upon the satisfaction of certain requirements terminates automatically 6 months after the date on which the provisional license is granted unless the applicant has satisfied the contingent requirements and the Administrator has issued the provisional license. If, following the termination of the grant of a provisional license pursuant to this subsection, the applicant wishes to obtain a provisional license, the applicant must submit a new application.

Sec. 8. *A licensee who wishes to apply for the renewal of a license must submit to the Administrator an application that includes, without limitation:*

1. A statement which verifies each program of instruction offered by the licensee and which includes, without limitation:

- (a) The title of the program;*
- (b) The length of the program in hours of instruction or credit hours;*
- (c) The total tuition and fees for the completion of the program; and*
- (d) The name of the academic instructor responsible for the program.*

2. A copy of the licensee's current catalog or brochure.

3. A description of each program of instruction for which there has been a substantial change since the immediately preceding grant or renewal of the license.

4. Verification of the financial stability of the applicant. The verification must have been prepared within the 12 months immediately preceding the date on which the license expires and be in the form of:

- (a) A financial statement reviewed or audited by a certified public accountant;*
- (b) A financial statement prepared according to generally accepted accounting principles;*

or

- (c) A balance sheet presented on forms provided by the Commission.*

5. An affidavit or power of attorney to the Commission or its staff to substantiate the specific information contained in the verification of the financial stability of the applicant submitted pursuant to subsection 4.

Sec. 9. *An applicant for approval of a change in the ownership of a licensed institution must:*

1. Except as otherwise provided in this subsection, submit to the Administrator an application that includes all the information required to apply for a provisional license pursuant to section 4 of this regulation. The applicant is not required to include in the application any information concerning the licensed institution which is on file with the Commission and which is current and will not change as a result of the change in ownership.

2. File with the Administrator a surety bond that is effective as of the date of the change in ownership. The bond must be in the amount determined by the Commission pursuant to NRS 394.480.

Sec. 10. *Except as otherwise provided in this section, a licensed institution that wishes to obtain the approval of the Commission to add a new program of instruction must submit to the Administrator an application that includes all the information required to apply for a provisional license pursuant to section 4 of this regulation. The applicant is not required to include in the application any information concerning the licensed institution which is on file*

with the Commission and which is current and will not change as a result of the addition of the new program of instruction.

Sec. 11. NAC 394.300 is hereby amended to read as follows:

394.300 As used in NAC 394.300 to 394.685, inclusive, *and sections 2 to 10, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 394.306 to ~~[394.355,]~~ **394.353**, inclusive, *and sections 2 and 3 of this regulation* and NRS 394.006 to 394.112, inclusive, have the meanings ascribed to them in those sections.

Sec. 12. 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 or she shall advise the applicant of the number of copies of each document required for review by the Commission at their next regularly scheduled meeting 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 the Administrator's recommendation for action by the Commission. The applicant or his or her representative must attend the meeting of the Commission to respond to inquiries of the commissioners relative to the application.]~~

Administrator.

Sec. 13. NAC 394.445 is hereby amended to read as follows:

394.445 1. ~~[To demonstrate that it can be maintained and operated in compliance with minimum standards, the Commission will grant each new institution a provisional license.~~

~~During]~~ *An institution that operates pursuant to a provisional license must, during the term of the provisional license* specified by the Commission, ~~[the institution must]~~ demonstrate its ability to comply with the provisions of NRS 394.383 to 394.670, inclusive, and NAC 394.300 to 394.685, inclusive ~~[,]~~, *and sections 2 to 10, inclusive, of this regulation.*

2. If students are not enrolled within the term of the provisional license, an additional period may be requested in writing by the institution.

~~[2.]~~ 3. The Administrator shall ~~[visit]~~ *conduct an on-site review of* the institution at least 30 days before the expiration of the provisional license ~~[. A complete report of the visit must be filed with the Commission at least 15 days before the expiration of the provisional license.]~~ *and file with the Commission a report of the review and the Administrator's recommendation concerning the licensure of the institution.*

4. *At a regularly scheduled meeting of the Commission at which the termination of a provisional license is considered, the Commission will:*

(a) *Extend the provisional license, if the institution has substantially met the required standards and the Commission considers any deficiencies to be minor;*

(b) *Terminate the provisional license, if the Commission determines that the institution is unable to meet required standards; or*

(c) *Grant a license.*

Sec. 14. NAC 394.485 is hereby amended to read as follows:

394.485 1. In a degree-granting institution:

(a) Each undergraduate course must be taught by an instructor who possesses a bachelor's degree from an accredited university or college 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 a master's degree from an accredited university or college 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, 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 Nevada System of Higher Education 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. Each institution shall maintain at least one of the following records to verify that each instructor is qualified to teach the course assigned to the instructor:

(a) Official transcripts used by the instructor to establish his or her qualifications.

(b) A description of the previous employment of the instructor that:

(1) Sets forth the actual duties performed by the instructor during his or her 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 or she is assigned.

4. Each institution shall ensure that a substitute instructor is provided if the regular instructor for a course is unable to complete the scheduled training. The substitute instructor must possess the same qualifications required of the regular instructor pursuant to this section.

Sec. 15. NAC 394.521 is hereby amended to read as follows:

394.521 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) ~~IA~~ ***If the institution uses proctors, 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.

~~{→}~~ 2. 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.~~ **section.**

Sec. 16. NAC 394.555 is hereby amended to read as follows:

394.555 1. ~~{Except as provided in NAC 394.550, an}~~ **An** institution which:

(a) Desires to use the term “college” or “university”;

(b) Desires to use a term which implies it is a college or university; or

(c) Is a degree-granting institution,

↪ must be accredited to offer the degree, or at least 75 percent of its courses leading to the degree must be transferable credit for credit acceptable to at least two accredited institutions toward a comparable degree in those institutions.

2. If an institution listed in subsection 1 is not accredited, it must execute with two accredited institutions an affidavit signed by the parties specifying which courses offered by the institution will be accepted toward degrees in the accredited institution. If the institution changes ownership, renews the license, or adds a program leading to a degree, each affidavit must be reaffirmed by the parties.

3. No institution whose license to operate is initially issued on or after July 1, 1979, may use the term “college” in its name if it does not at least offer associates’ degrees under a program approved by the Commission.

4. The Commission will authorize use of the term “college” by any sectarian institution which does not award or grant degrees for the education or training of its own membership and does not advertise or promote this education or training as leading toward an educational credential.

5. No institution whose license to operate is initially issued on or after July 1, 1979, may use the term “university” in its name if it does not at least offer bachelors’ degrees under a program approved by the Commission.

Sec. 17. NAC 394.600 is hereby amended to read as follows:

394.600 Any advertising through any medium which cannot be changed or deleted within a 7-day period, including, but not limited to, classified telephone directory or national advertising, must be approved by the Administrator ~~[of the Commission]~~ before it is printed. The full copy of the advertisement must be submitted in writing ~~[]~~ *or in an electronic or other format approved by the Administrator.*

Sec. 18. NAC 394.610 is hereby amended to read as follows:

394.610 *1.* Upon acceptance of his or her enrollment in an institution, ~~[which does not grant a degree,]~~ each student must receive a copy of the *enrollment agreement or* contract signed by the student or his or her guardian and by a representative of the institution. ~~[The content and format of the contract must be approved by the Commission before use by the institution. The contract must contain the following information and stipulations, as a minimum:~~
~~—1. The name of the institution, its address and telephone number.~~

- ~~—2.— The name of the student, his or her address and telephone number.~~
- ~~—3.— The title of each course in which the student is enrolled.~~
- ~~—4.— The minimum number of instructional hours or credits of each course, and the date upon which each course begins.~~
- ~~—5.— The schedule of payment and total cost of each course.~~
- ~~—6.— The policy for refunds of the institution, printed in bold type.~~
- ~~—7.— If any student is bound by a document of indebtedness for money from a source outside of the institution, the provisions required by that source.~~
- ~~—8.— A disclaimer by the institution, printed in bold type, stating that placement in a job is not guaranteed or promised to graduates.~~
- ~~—9.— A statement printed in bold type stating that the person signing the contract or agreement for enrollment has received, read and understood the document, has received the catalog of the institution and understands that the catalog is part of the contract.~~
- ~~—10.— The policy of the institution on granting credit for previous training, and if granted, a provision for reduction in the cost and length of the course.}]~~

2. An institution that wishes to change an enrollment agreement or contract with a student without incurring liability pursuant to NRS 394.520 for a substantial failure to furnish the instruction or services agreed upon must:

(a) Offer the student a fair chance to complete the same program or another program with a demonstrated possibility of placement equal to or higher than the possibility of placement of the program in which the student is enrolled within approximately the same period at no additional cost; or

(b) Obtain the student's written agreement to the specified changes and a statement that the student is not being coerced or forced into accepting the changes.

Sec. 19. NAC 394.670 is hereby amended to read as follows:

394.670 1. Except as otherwise provided in subsection 2, if an institution violates a provision of NRS 394.383 to 394.670, inclusive, or NAC 394.300 to 394.685, inclusive, *or sections 2 to 10, inclusive, of this regulation* that the Administrator reasonably believes would:

(a) Adversely affect the health, safety or financial welfare of a student, the Administrator shall immediately suspend further enrollment of students.

(b) Not adversely affect the health, safety or financial welfare of a student, the Administrator shall notify the institution by certified mail that it must correct the violations within 30 days. If the institution does not comply, the Administrator will suspend further enrollment of students. If the violation is not resolved to the satisfaction of the Administrator within 30 days after the suspension of enrollments, action to fine the institution, revoke the license of the institution or a combination of both actions will be instituted.

2. The Administrator shall impose an administrative fine of \$250 if an institution does not submit the annual report required by NRS 394.443 or pay the fees required by NRS 394.540 or 394.557 within 15 calendar days after the report or fees are due.

Sec. 20. NAC 394.700 is hereby amended to read as follows:

394.700 As used in NAC 394.700 to ~~394.735,~~ **394.730**, inclusive, unless the context otherwise requires, the words and terms defined in NAC 394.705 and 394.710 have the meanings ascribed to them in those sections.

Sec. 21. NAC 394.715 is hereby amended to read as follows:

394.715 1. An applicant for certification of an alcoholic beverage awareness program pursuant to NRS 369.625 must submit to the Administrator:

(a) Evidence satisfactory to the Administrator that each instructor for the program ~~[satisfies the requirements of NAC 394.720;]~~ *is competent and qualified to provide instruction in the curriculum of the program;* 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. 22. NAC 394.325, 394.340, 394.345, 394.350, 394.355, 394.380, 394.385, 394.390, 394.400, 394.405, 394.410, 394.415, 394.420, 394.427, 394.440, 394.450, 394.490, 394.522, 394.525, 394.535, 394.537, 394.540, 394.550, 394.560, 394.570, 394.575, 394.580, 394.605, 394.615, 394.623, 394.650, 394.655, 394.720 and 394.735 are hereby repealed.

TEXT OF REPEALED SECTIONS

394.325 “Laboratory or practicum environment” defined. (NRS 394.411) “Laboratory or practicum environment” means an instructional setting involving special equipment or procedures as contrasted to a regular lecture or classroom situation. For the purpose of measuring

an educational program, such an environment has one-half the numerical value of instruction in a classroom.

394.340 “On-the-job training” defined. (NRS 394.411) “On-the-job training” means training which is under the supervision and liability of an employer and generally consists of full employment shifts or periods and for which at least a minimal wage is paid.

394.345 “Supervised training” defined. (NRS 394.411) “Supervised training” means training which is received at an employment setting other than the institution and is specified and included in the hours required for graduation in the enrollment contract or agreement with 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.

394.350 “Table games” defined. (NRS 394.411) “Table games” means gaming activities which normally take place on a table including blackjack or “21,” craps, roulette, baccarat, poker, chemin de fer and pan. The term does not include slot machines or electronic gaming devices wherein a “dealer” is not required.

394.355 “U.S. Department of Education” defined. (NRS 394.411) “U.S. Department of Education” means the United States Department of Education.

394.380 Submission of description of courses of study by applicants. (NRS 394.411)

1. Each applicant for a license as a private postsecondary educational institution must submit a description of each course of study leading to an academic, professional or vocational goal.

2. An applicant for the renewal of a license may be required to submit a description of each course of study if the Administrator finds that there has been a substantial change in the program during the current license period.

394.385 Contents of description of course of study. (NRS 394.411) 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 objective the program is intended to meet;
3. Each educational unit, including its measurable learning objectives, the hours of instruction, 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.

394.390 Submission of plans. (NRS 394.411) An applicant for a license to operate a school must submit plans, blueprints or line drawings which describe in detail the facilities, including parking areas, in which the school will operate.

394.400 Inspection and approval of facility before issuance of license to operate. (NRS 394.411, 394.460) 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.

394.405 Submission of evidence of financial stability. (NRS 394.411, 394.445)

1. Each applicant for a license or change of ownership must submit a certified financial statement which contains the information set forth in subsection 2 as evidence of the applicant's

financial stability. The financial statement must be prepared within 12 months before the date of application and must be audited or reviewed by a certified public accountant.

2. The financial statement must contain:

(a) A statement of the source of all investment capital received;

(b) A statement of the disposition of 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 subsection 2 prepared in accordance with generally accepted accounting principles.

394.410 Financial statement: Substantiation. (NRS 394.411, 394.445) An applicant for a license or the renewal of a license to operate a private postsecondary educational institution must give an affidavit or power of attorney to the Commission or its staff to substantiate the specific information contained in the financial statement of the applicant.

394.415 Proposed budget for first year of operation. (NRS 394.411, 394.445) An applicant for an original license must submit a proposed budget for the first year of operation.

This budget must include the following information for all operations related to the school for the academic year and any summer sessions and evening extension programs:

1. Anticipated income for the year, identified by source and amount, which includes:
 - (a) Cash on hand at the beginning of the year.
 - (b) Actual or anticipated income.
 - (c) Total anticipated income.
2. Anticipated expenditures, which include:
 - (a) A list of all administrative personnel by name, position and proposed compensation, including salary, living quarters, automobile and any services to be furnished by the school.
 - (b) Other expenses of administration, listed by purpose and amount.
 - (c) A list of instructional personnel actually under contract or anticipated to be under contract, indicating their actual or proposed salaries.
 - (d) An estimate of money to be expended for textbooks, library services and other expenses of instruction.
 - (e) A list of proposed expenditures by category for the following:
 - (1) Facilities.
 - (2) Equipment and maintenance.
 - (3) Supplies.
 - (4) Books, other than textbooks.
 - (5) Services for students.
 - (6) Services for the community.
 - (7) Advertising.
 - (8) Transportation.

(9) Insurance.

394.420 Assurance of equal educational opportunities. (NRS 394.411, 394.421) The applicant for a license to operate a private postsecondary educational institution must assure the Commission that enrollment is open to all who meet entrance requirements, regardless of age, race, sex, national origin, or otherwise in compliance with all applicable federal or state laws and regulations. This assurance must be made on forms supplied by the Commission.

394.427 Application for approval of change of ownership. (NRS 394.411, 394.460) An application for an approval of change of ownership must include a completed application and an executed bond which is effective on the date of the change of ownership.

394.440 Provisional licenses: Early review of application; issuance; withdrawal. (NRS 394.411, 394.460)

1. An applicant for a license may have an application placed on the agenda before meeting all of the requirements if, in the judgment of the Administrator, the contingencies are either minor or routine in resolution.

2. Where the Commission has granted approval of a license to operate subject to compliance with certain requirements a provisional license will be granted which becomes effective when all the requirements are met. The institution may not begin operation until the license has been issued.

3. If an applicant, who has received approval by the Commission to operate subject to compliance with requirements, fails to comply within 6 months after the date of the approval, the approval is automatically withdrawn and the applicant must reapply.

394.450 Provisional licenses: Action by Commission. (NRS 394.411, 394.460) At a regularly scheduled meeting of the Commission at which the termination of a provisional license is considered, the Commission will:

1. Extend the provisional license, if the institution has substantially met the required standards and the Commission considers deficiencies to be minor;
2. Deny continued licensure, if the Commission determines that the school is unable to meet required standards; or
3. Grant a license.

394.490 Substitute instructors. (NRS 394.411, 394.421)

1. A substitute instructor may teach any part of a course in the absence of the regular instructor. A substitute instructor must possess the 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.

394.522 Instruction in essentials of state and federal constitutions. (NRS 394.411, 394.421)

1. An institution which grants an associate's degree or a bachelor's degree must offer:
 - (a) At least once a year, a course in the essentials of the Constitution of the United States and the Constitution of the State of Nevada for which 3 semester or 4 quarter credits may be earned;
 - (b) An equivalent course with an examination approved by the Commission; or
 - (c) An examination on the constitutions.
2. An examination on the constitutions must be:
 - (a) Approved by the Commission;

(b) Part of a course on the constitutions approved by the Commission; or

(c) An examination or course with an examination on the constitutions offered by the Nevada System of Higher Education.

394.525 Gaming schools: Instruction for training in table games. (NRS 394.411, 394.421) An institution that offers training in table games shall offer instruction that is adequate for employment in casinos as determined by the State Gaming Control Board.

Lecturing or classroom instruction must not comprise more than 50 percent of the program.

394.535 Massage schools: Programs of instruction. (NRS 394.411, 394.421)

1. The Commission will not approve a correspondence course in massage.

2. A basic program of instruction in massage must consist of at least 500 hours of training and include courses in each of the following subjects:

(a) Anatomy and physiology;

(b) Massage theory and history;

(c) Massage techniques, demonstrations and practices;

(d) Hygiene and first aid;

(e) Business practices; and

(f) Law and ethics.

3. Each subject included in a basic program of instruction in massage must be adequately covered as determined by reviewers advising the Commission.

4. An advanced program of instruction in massage must consist of training as determined by reviewers advising the Commission.

5. A massage school shall not enroll a student in an advanced program of instruction in massage unless the student submits to the school proof that he or she has:

- (a) Successfully completed a basic program of instruction in massage; or
- (b) At least 2 consecutive years of experience in the practice of massage.

6. Proof submitted pursuant to paragraph (a) of subsection 5 must include a transcript issued by a massage school approved by the Commission.

7. Proof submitted pursuant to paragraph (b) of subsection 5 must include:

(a) A license to engage in the practice of massage issued by a state agency or local government that indicates at least 2 consecutive years of experience in the practice of massage;

(b) If the student is employed by a massage establishment, a letter from the student's present or former employer that:

(1) Sets forth the duties of the student during his or her employment; and

(2) Verifies at least 2 consecutive years of employment in the practice of massage; or

(c) If the student is self-employed, a copy of the student's tax records which indicate that he or she has engaged in the practice of massage for at least 2 consecutive years.

394.537 Schools for modeling: Statement that the programs do not qualify persons for licensure by Board of Cosmetology. (NRS 394.411, 394.421) A school for modeling shall include in its catalog a statement that the programs in the school do not qualify persons to be licensed by the Board of Cosmetology as cosmetologists, aestheticians or make-up artists.

394.540 Fictitious name. (NRS 394.411, 394.421) Before a school may use a fictitious name, it must submit to the Commission a request to have the new name approved. After approval of the fictitious name has been given, the name must be registered with the county clerk in the county where the school is located and a copy of the registration must be filed with the Commission. After complying with this section, the school may use the name.

394.550 Use of terms “college” and “university”: Authorization given before July 1, 1979. (NRS 394.411, 394.625)

1. Each postsecondary educational institution which was authorized to use the term “college” or “university” before July 1, 1979, as part of its business name and desires to continue with that use must submit a petition to the Commission for authorization. The petition must include a justification for the continued use.

2. The Commission may convene a hearing to consider issues raised by such a petition. Besides considering the institution’s qualification to award degrees, the Commission may consider:

(a) The cost to the institution of any change in its name.

(b) Whether its name is registered or otherwise established as a trade name and is widely recognized.

(c) Whether any change in its name is likely to result in a loss in its enrollment of students or would have a harmful effect on its reputation.

(d) Whether any change in its name would adversely affect its accreditation or the eligibility of its students to receive financial aid.

3. If an institution is authorized pursuant to this section to use the term “college” or “university” as part of its name, it shall not call undue attention to the term by enlarged lettering or other stylistics.

394.560 Submission of description of a new or revised vocational program or program leading to a degree. (NRS 394.411, 394.421) Each institution which plans to add or significantly revise a vocational program or a program leading to a degree must submit a

description of each new or revised program and such other information as the Administrator requires.

394.570 Leased, rented facilities. (NRS 394.411, 394.421) Any facility which is leased or rented to house the instructional program of the school must be leased or rented pursuant to a contract or lease agreement between the owner of the school and the owner of the facility. The contract or lease agreement must stipulate the term of the lease and the conditions of the lease and must be signed by both parties. A copy of the agreement must be filed with the Commission with the application.

394.575 Space required in classrooms. (NRS 394.411, 394.421) At least 15 square feet of space must be provided for each student in a classroom. Exceptions to this requirement may be applied for occasional lectures in an auditorium or for special student participation seminars. The Commission may require more space for each student in a laboratory or practicum environment.

394.580 Telephone listing of school office required. (NRS 394.411, 394.421) The office of a school must have a telephone listed in the local telephone directory at the earliest printing of the directory after the school receives its license.

394.605 Contents of catalog or brochure. (NRS 394.411, 394.421, 394.441) In addition to the information required by law, a copy of the catalog or brochure approved by the Commission must be available to each student before enrollment and must include at least:

1. Information to identify the catalog or brochure, including the date the publication is effective;
2. The name of the institution and its governing body, officials and faculty;

3. A calendar showing business hours, legal holidays, beginning and ending date of each established term or course of study, and other important dates;

4. The policy and regulations of the institution on enrollment, including requirements for admission and specific requirements for entrance into each course and any deadlines for enrollment;

5. The policy and regulations of the institution concerning the standards of progress required of the student by the institution, including a:

(a) Definition of the grading system of the institution and the minimum grade considered satisfactory;

(b) Statement of the conditions for interruption of the program of a student for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution; and

(c) Statement of the conditions of readmission for those students dismissed for unsatisfactory progress;

6. The policy and regulations of the institution relative to leave, absences, a class missed without an excuse, makeup work, tardiness and interruptions for unsatisfactory attendance;

7. The policy and regulations of the institution relating to discipline of the students and conditions for dismissal for unsatisfactory conduct;

8. The policy and regulations of the institution concerning any charges if the student does not enter the course, withdraws or is discontinued from the course;

9. A description of the available space, facilities and equipment;

10. The policy and regulations of the institution concerning granting credit for previous education and training;

11. A detailed description of the extent and nature of any service or assistance in the placement of its graduates which the institution represents that it provides; and

12. A statement describing the status of the institution's license and accreditation.

394.615 Agreement upon acceptance of enrollment in a degree-granting institution.

(NRS 394.411, 394.421, 394.441) Upon acceptance of his or her enrollment in a degree-granting institution, each student must receive a copy of the agreement signed by the student or his or her guardian and by a representative of the institution. The agreement must contain the following information and stipulations as a minimum:

1. The name of the institution, its address and telephone number.
2. The name of the student, his or her address and telephone number.
3. The degree for which the student is enrolled, if enrolled for a degree.
4. The date the catalog under which the student enrolled is effective.
5. A statement printed in bold type that the person signing the agreement has received, read and understood the document and has received the catalog of the institution and understands that the catalog is part of the contract.

394.623 Changes in enrollment agreement or contract. (NRS 394.411, 394.421) To change an enrollment agreement or contract without a substantial failure to furnish the instruction or services agreed upon, the institution must:

1. Offer the student a fair chance to complete the same program or another program with a demonstrated possibility of placement equal to or higher than the possibility of placement of the program in which the student is enrolled within approximately the same period of time at no additional cost; or

2. Obtain the student's written agreement to the specified changes and a statement that the student is not being coerced or forced into accepting the change.

394.650 Approval of form of certificate of completion or diploma by Commission.

(NRS 394.411, 394.421) Before any certificate or diploma may be issued, a copy of the proposed form must be submitted to the Commission for approval.

394.655 Massage schools: Specific requirements; prohibited acts. (NRS 394.411, 394.421)

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 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 or she 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.

394.720 Instructors: Qualifications; replacement; criminal history. (NRS 369.625, 394.411)

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 or she 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 or she provides instruction for the program.

2. Before a person may provide instruction for a certified program, the person must submit to the Administrator a complete set of his or her 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.

394.735 Alcoholic Beverage Awareness Program Account: Application for reimbursement of employee; administration. (NRS 369.630, 394.411)

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 NRS 369.630. 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 the employee 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 or her 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 NRS 369.620.

(c) "Valid alcohol education card" has the meaning ascribed to it in NRS 369.630.