

STEVE SISOLAK
Governor

STATE OF NEVADA

KELLY D. WUEST
Commission Administrator

ELISA CAFFERATA
Director



LYNDA PARVEN
Administrator

DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION
EMPLOYMENT SECURITY DIVISION
500 E. THIRD STREET
CARSON CITY, NEVADA 89713-0001

Nevada Commission on Postsecondary Education
NOTICE OF PUBLIC MEETING

Post Date: February 1, 2022

The Commission on Postsecondary Education will conduct a meeting on **February 9, 2022**, commencing 9:00 a.m., at the locations listed below via videoconferencing:

THIS MEETING WILL BE HELD VIA VIDEOCONFERENCE ONLY

The public may observe this meeting and provide public comment during the public comment section on Zoom.

Topic: Commission on Postsecondary Education Commission Meeting

Time: Feb 9, 2022, 09:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85394793014?pwd=TkZlZSsxOXNcVjNlZm5SWi9UaXF6QT09>

Meeting ID: 853 9479 3014

Passcode: 660328

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213.19.144.110 (Amsterdam Netherlands)

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103.122.166.55 (Australia Sydney)

103.122.167.55 (Australia Melbourne)

149.137.40.110 (Singapore)

64.211.144.160 (Brazil)

149.137.68.253 (Mexico)

69.174.57.160 (Canada Toronto)

65.39.152.160 (Canada Vancouver)

207.226.132.110 (Japan Tokyo)

149.137.24.110 (Japan Osaka)

Meeting ID: 853 9479 3014

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According to NRS 241.020, Meeting Materials are available at:

https://detr.nv.gov/page/public_meetings

The Commission may take items out of order; combine two or more items for consideration; remove an item from the agenda; or, delay discussion on any item. The Commission will take public comment at the beginning and end of this meeting and may allow public comment after conclusion of any contested case or quasi-judicial proceedings that may affect the due process rights of an individual. The Commission will limit public comment to three minutes. Written submissions may be considered. While there will be no restriction on comments based on viewpoint, repetitive comments may be limited.

AGENDA

General Business

- A. Call to Order -----Informational
- B. Public Comment -----Informational
Chair may limit public comment to 3 minutes per speaker but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action item.
- C. Review Written Comments -----Informational
- D. Confirmation of Posting and Opening Meeting Compliance -----Informational
- E. Roll Call and Confirmation of Quorum -----Informational
- F. Adoption of Agenda -----For possible action
- G. Approval of November 3, 2021 Minutes -----For possible action
- H. Administrator’s Report -----Informational

Applicants for consideration of a Full-Term License

- I. Adult Care Connections -----For possible action
- J. Arch Dental Assistant Academy -----For possible action
- K. Coaching Pros for Personal Injury Academy -----For possible action
- L. iTeachNevada -----For possible action
- M. Phlebotomy Training Specialists, LLC -----For possible action
- N. Sonder CNA Training -----For possible action

Applicants for consideration of Initial Provisional Licensure

- O. Accelerated Dental Assisting Academy -----For possible action

NAC Changes

- P. Changes to NAC 441A Concerning Immunization Requirements -----For possible action
- Q. Changes to NAC 394 Concerning Financial Stability -----For possible action

Comments

- R. Public Comment -----Informational
Chair may limit public comment to 3 minutes per speaker but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action item.

Adjournment

- S. Adjournment -----For possible action

A copy of the meeting Notice and Agenda can be requested either in person or by written request to the Commission on Postsecondary Education, 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104; email at sbeckett@detr.nv.gov; or telephone Susan Beckett at (702) 486-2898 or fax request to (702) 486-7340. Copies of pertinent documents will also be made available on the CPE and DETR website at: <http://cpe.nv.gov> and <http://detr.nv.gov>.

NOTE: Written comments must be received by the Commission on Postsecondary Education on or before February 7, 2022 at the following address:

Department of Employment, Training and Rehabilitation
Employment Security Division
Commission on Postsecondary Education
Attn: Susan Beckett
2800 E. St. Louis Avenue
Las Vegas, NV 89104
Or via e-mail at sbeckett@detr.nv.gov

NOTE: Persons with disabilities who require reasonable accommodations or assistance at the meeting should notify the Commission on Postsecondary Education in writing at 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104, or contact Susan Beckett at (702) 486-2898 or e-mail sbeckett@detr.nv.gov (*for individuals who are deaf or have hearing disabilities, dial TTY (800) 326-6868 or 711 for Relay Nevada*) or send a fax to (702) 486-7340 within 72 hours of meeting date and time. Supporting materials as provided for in NRS 241.020(5) may be obtained by contacting Susan Beckett at the above-noted contact information.

Notice of this meeting was mailed to groups and individuals as requested at the following locations on or before 9 a.m. on the 3rd working day prior to the scheduled meeting date.

1. Commission on Postsecondary Education principal office at, 1860 E. Sahara Avenue, Las Vegas, NV 89104
2. DETR – State Administrative Office, Stan Jones Building, 2800 E. St. Louis Avenue, Las Vegas, NV 89104
3. DETR – State Administrative Office, 500 E. Third Street, Carson City, NV 89713
4. Grant Sawyer Building, 2501 Washington Street, Las Vegas, NV 89101
5. State Capital Building, 101 N. Carson Street, Carson City, NV 89701

Notice of this meeting was posted on the Internet on the following websites: DETR's Public Notices website at: http://detr.nv.gov/Page/PUBLIC_NOTICES, the State of Nevada's Public Notices website at: <https://notice.nv.gov/>, the Commission on Postsecondary Education page at www.cpe.nv.gov and the Administrative Regulation Notices website at: <http://www.leg.state.nv.us/App/Notice/A/>.

DRAFT MINUTES
STATE OF NEVADA
EMPLOYMENT SECURITY DIVISION
COMMISSION ON POSTSECONDARY EDUCATION

NEVADA COMMISSION ON POSTSECONDARY EDUCATION MINUTES

Topic: Commission on Postsecondary Education
Time: November 3, 2021, 09:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/83611338598?pwd=TXVBalFaVIM4Q213dTEwUjZURitNZz09>

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207.226.132.110 (Japan Tokyo)

Passcode: 961679

Staff Present during Video Conference

Kelly D. Wuest, CPE Administrator
Maricris Wu, CPE Postsecondary Education Specialist
Ryan Rishling, CPE VA SAA Postsecondary Education Specialist
Susan Beckett, CPE Administrative Assistant III

**Members of the Public, Media, and Other Agencies
Present in Las Vegas**

Todd Weiss, Nevada Attorney General Office, Deputy Attorney General
Elisa Cafferata, DETR Director
Michelle Armas, United Education Institute
Elvia Barba, United Education Institute
Lisa Barranco, Southeastern University
Heidi Callender, University of Phoenix
Shellie Hernandez, Sin City Scuba, LLC
Syed Kazmi, United Education Institute
Susie Kochevar, Mountain View Hospital Paramedic Institute
Gregg Ketter, KDI Academy
Kang Won Lee, Haven University
Shjaji Mathew, United Education Institute
Ed Mumm, Dig This Academy
Gail Renzi, Aveda Institute
Casey Roach, United Education Institute
Joshua Smith, Haven University
Curtis Snaper, Sin City Scuba, LLC
Brian Trott, Haven University
Linda Trott, Haven University
Troy Tuke, Mountain View Hospital Paramedic Institute
Bruce Vermeulen, OceanPoint Dental Academy of Nevada
Michelle Wyman, Dig This Academy

**Member of the Commission on Postsecondary Education
Present during Video Conference Meeting**

Nate Clark, Chair
Sharon Frederick, Vice Chair
Thomas Kenny
Chris Sewell
Steven Soares

STATE OF NEVADA
EMPLOYMENT SECURITY DIVISION
COMMISSION ON POSTSECONDARY EDUCATION
MINUTES

November 3, 2021 – 9:00 A.M.

Call to Order

The meeting was held via Video Conference ZOOM. The meeting was called to order by Chair Commissioner Nate Clark at approximately 9:00 AM.

Public Comments

Commissioner Clark asked for public comment – no public comment.

Written Comments

This is Susan Beckett, no written comments.

Confirmation of Posting

Susan Beckett, for the record, Administrative Assistant III, Employment Security Division, Commission on Postsecondary Education. Yes, proper Notice and Posting were completed for this Meeting. The meeting will be held via videoconference only.

Roll Call

- Commissioner Chair Clark - Excused
- Commissioner Vice-Chair Frederick - Present
- Commissioner Eade - Excused
- Commissioner Kenny - Present
- Commissioner Ponder - Excused
- Commissioner Rhodes - Absent
- Commissioner Sewell – Present
- Commissioner Soares - Present

Administrator Kelly Wuest: took roll via verbal and video. Confirmation of a quorum.

Adoption of Agenda:

Motion: Commissioner Kenny – Move to approve adoption of Agenda for November 3, 2021.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, agenda is adopted.

Approval of Minutes August 4, 2021, Meeting

Motion: Commissioner Frederick– Motion to approve the minutes for August 4, 2021.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, motion carries.

Administrators Report

Administrator Kelly Wuest read the submitted Administrators Report (as submitted in the Public Packet Posting) with the following updates:

The initial application packet has been updated. There are tabbed sections to further assist new school applicants. The renewal packet has also been updated and has been posted on our website.

Quarterly Reporting update - we still have 32 institutions unreported, the total enrollment for the quarter ending September 30, 2021, now stands at 9,455. We have seen a surge in Real Estate enrollment. Overall, we are not experiencing a decrease in student enrollment like the national average is.

Questions – Clark, questioned pertaining to the PowerPoint and closing the gap from accredited verses non-accredited schools. Would there be any thought to accredited schools be able to need to answer the same question. Is this something that would need to be brought up through the legislature. Administrator Wuest, there was a bill that was in the legislature that was very burdensome to all institutions, it did not pass. For the curriculum process we do accept accreditation unless it is overseen by a board such as massage. Commissioner Clark, the only thing I will need to address is the font. It will have to increase the paper size from an 8 ½ by 11 to an 8 ½ by 14. Administrator Wuest clarified that we are not the font police, yet it could be possible to check if we ran it through our PDF check. Commissioner Clark, it could be tested in the court system, and I want to make sure my school is compliant.

Applications for Full Term License

Aveda Institute Las Vegas

Testified: Gail Renzi, gave an update and operations information for the institution.

Motion: Commissioner Frederick – A motion that Aveda Institute provisional license be extended for an additional six-months.

Second: Commissioner Kenny.

Discussion: None.

Results: Unanimous, motion carries.

KDI Academy

Testified: Gregg Ketter, Director gave an update, background and operations information pertaining to the status of the institution.

Motion: Commissioner Sewell – A motion that we extend the provisional license for KDI Academy for an additional nine-months.

Second: Commissioner Frederick.

Discussion: None.

Results: Unanimous, motion carries.

Mountain View Hospital Paramedic Institute

Testified: Troy Tuke, Academic Director, gave background and updated operations of the institution.

Commissioner Clark questioned the use of transcripts that were different than the ones approved by the commission originally in the application process. Mr. Tuke, we found during the program there were changes needed and we revised the transcript. However, we have fixed the areas of concern and moving forward we will use the revised transcripts. Commissioner Clark, the other area of concern was the enrollment agreement. Can you provide information? Mr. Tuke, we do not take students without approval from our board. We have since changed our policies to include the actual approved enrollment agreement. Commissioner Clark, are your referrals all from other agencies? Mr. Tuke, yes the student must have a referral and the actual agencies pay for the program for the students.

Motion: Commissioner Kenny – A motion that Mountain View Paramedic Institute be extended for an additional six-months.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, motion carries.

Sin City Scuba, LLC

Testified: Curtis Snapper and Shellie Hernandez were present for the meeting. Ms. Hernandez gave the background information for the school.

Commissioner Clark, describe the industry, the scuba industry in Las Vegas. Ms. Hernandez, this is the diving capital of the desert. We have a lot of scuba jobs in this town and of course the option to go worldwide. The O show at Bellagio Hotel has divers; divers for the fountains to work on the fountains; other hotels such as Silverton, Mirage, and of course there are diver instructors that teach people to dive for amazing vacations.

Motion: Commissioner Frederick – Motion to grant a full-term license to Sin City Scuba.

Second: Commissioner Sewell.

Discussion: Ms. Hernandez, stated - thank you to Maricris she was very patient and extremely knowledgeable through this whole process.

Results: Unanimous, motion carries.

Southeastern University

Testified: Lisa Barranco, Senior Director for Accreditation and Compliance, gave an update on the operations and background of the university.

Motion: Commissioner Kenny – Motion to grant full term license for Southeastern University.
Second: Commissioner Sewell.
Discussion: None.
Results: Unanimous, motion carries.

United Education Institute

Testified: Elvia Barba, Regulatory Compliance Specialist spoke and introduced their colleagues attending the meeting then furthered with background information pertaining to the institute and an update on the current student population of just over 800 students and still growing.

Motion: Commissioner Frederick – Motion to grant full term license for United Education Institute.
Second: Commissioner Sewell.
Discussion: None.
Results: Unanimous, motion carries.

Applications for Initial Provisional Licensure

Dig This Academy

Testified: Ed Munn, Owner/President gave a background on the operations and plans for the academy.

Commissioner Clark asked about the entertainment side of Dig This. Mr. Munn replied that people are interested in operating heavy equipment. There are a variety of people who come to use our facility from personal to children’s party to adult parties.

Commissioner Frederick, what do you do to vet your participants? Do you do any training before you turn over the keys to these large pieces of equipment? Mr. Munn, it is completely supervised by facilitators and instructors and there are activities and instruction for building confidence in this program prior to using the equipment. Commissioner Frederick, have you ever had to turn away a client that you felt was not safe? Mr. Munn, yes, so obviously alcohol is an issue here in Las Vegas. We have the capability to remotely shut down the equipment if there are any issues. Commissioner Frederick, is there an age limit? Mr. Munn, youngest is age three and we even offer programs to children with special needs.

Commissioner Sewell, how are you going to recruit students and how to you assist them once they graduate? Mr. Munn, I do not think that recruiting is going to be too much of an issue based on the demand in the industry. I just looked at the numbers and 10,000 operators are needed between now and 2024, 700,000

nationwide. We will be also working with Clark County School District to provide some scholarships. Commissioner Clark, you could also investigate the ETPL list with DETR. Mr. Munn, we wanted to get the licensing down first. Commissioner Sewell, when you are inquiring with DETR also inquire about the Governor's Office Workforce Innovation they may have some funding available to assist with tuition as well.

- Motion: Commissioner Frederick – That a twelve-month provisional license be granted to Dig This Academy to offer six certificate programs in Heavy Equipment Operator Level 1; Heavy Equipment Operator Ready Backhoes; Heavy Equipment Operator Dozers; Heavy Equipment Operator Ready Excavators; Heavy Equipment operator Ready Loaders; and NCCER Core Curriculum contingent upon receipt of surety bond in the amount of \$56,000 and personnel information.
- Second: Commissioner Sewell.
- Discussion: None.
- Results: Unanimous, motion carries.

Haven University

Testified: Brian Trott, Dean of Administration, spoke and introduced their colleagues attending the meeting then furthered with giving praise to the commission staff and the assistance that was given to the by Administrator Wuest. They then furthered background information.

Commissioner Sewell, how do you go about recruiting? Dr. Trott, internet advertising, strong relationships with the Asian community and the 52-year history of alumni as well.

Commissioner Clark, please tell me about your financial position and any plans for improving that? Dr. Lee replied, the school has been around for a long time and there are many Christian groups willing to put their name with the school and that is why we have come this far. Because of the track of the accrediting board, we have added the BS in BA and the MBA about four years ago we would like to increase our enrollment. Enrollment is decreasing now across the United States we want to increase our students not only here in Los Angeles, but also in Las Vegas which is a business city. Commissioner Clark, so I noticed on your financial statements that your composite score is a -.26, usually you only see composite scores on financial statements for schools that are eligible for Title IV funding, I assume your school uses federal aid programs. Dr. Lee, yes, we are using Title IV but there is no problem with the Department of Education for our Title IV students. We have few Title IV students, mostly international students, so we do not depend on the Title IV students. Commissioner Clark, did the US Department of Education require you to put a letter of credit for that composite score? Dr. Lee, no that was not required. Commission Clark, that is odd. How long has the school had a composite score below 1.5? Dr. Lee, I think it was less than three years

because of the lease matters, but it was all resolved. I do not expect there is any more negative issues from 2021.

Commissioner Kenny, what percentage of your student population do expect to be ESL students and what plans do you have in place to help support those students? Dr. Lee, international students come to the United States with beginning ESL courses then they want to step to additional courses because of course they are students. The students come from Korea, Japan, Vietnam, and Kuala. After two years of the ESL course, they go up to a degree program. Dr. Trott furthered once they have completed the basic ESL and have command of the English language, they are furthered into the business courses.

- Motion: Commissioner Sewell – Motion for a twelve-month provisional license be granted to Haven University to offer a Master of Business Administration and a Bachelor of Science degree in Business Administration, staffing, facility approval and surety in the amount of \$116, 500.
- Second: Commissioner Kenny.
- Discussion: None.
- Results: Unanimous, motion carries.

OceanPoint Dental Academy of Nevada

Testified: Bruce Vermeulen, gave a thank you to the staff of the commission and their assistance. They furthered with need for the academy and update of the plans for the institution.

Commissioner Clark asked about the revised statues in Nevada require the onsite director have knowledge of the statues around running a school you are a consultant are you going to be around or who is going to have the knowledge of the school. Mr. Vermeulen, we have a team that trains and we will be training the team that will be running the school. I will be tied to the school for the next two to three years. Commissioner Clark, you spoke of the need. However, speaking with my own dentist he does not see a need. What is the long term here? Mr. Vermeulen, I understand your dentist. However, across the nation there is a need for hands on training. They need hands on training with at least two hours per week of clinical with hands on using instruments. Commissioner Clark, you touched on a very important point. While they can train, can they run the school? Mr. Vermeulen, I think it is very important that we keep the OceanPoint name clean and our assistance with the training will be the success of this academy.

Commissioner Sewell, do you have a procedure or a policy that once your students graduate from the program and what type of assistance do you give to get them out in the real world working. Mr. Vermeulen, yes one is the local dentists, we always canvass them for the need. Additionally, the externship program and then we help them and will continue to help them if the school is licensed.

Commissioner Kenny, this is more of a logistical question. So, I am a dentist from a facilities perspective where are these lectures occurring? I have visited many offices myself and most of them are not equipped to deliver didacts, labs yes of course. Mr. Vermeulen, we look for 20 square feet per student. Minimum of 15 feet. We can currently accommodate 20 in the reception area of the office.

Motion: Commissioner Kenny – That a twelve-month provisional license be granted to OceanPoint Dental Academy of Nevada to offer the Dental Assisting program contingent upon receipt of surety bond in the amount of \$27,400, facility and personnel information.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, motion carries.

Public Comment

None.

The meeting was adjourned by Commissioner Clark. Time: 10:17 a.m.

Administrators Report
Prepared January 31, 2022

1. Computer System

DETR has been working to locate funding to acquire a computer system for the agency. Although approved by the legislative for funding starting FY21, the system was eliminated in the budget cuts at the beginning of the pandemic. Staff has worked on a request for information to inquire of any off the shelf systems available to private postsecondary licensing. If the system is not secured in this biennium, it will be included in the request for the next budget.

2. Budget Updates

Budget preparations for next biennium are underway. CPE has requested funding for the previously approved computer system and the ongoing maintenance of such a system. The requested system will provide workflow management, licensee access, public facing inquires and payment systems for licensees.

CPE has also requested the addition of a Compliance Audit Investigator to Commission staff. The position would assist with investigations of illegal school operations, audits for both licensing and VA along with digital media compliance. This would bring staffing back to the level of 2008, when the Commission experienced staff reductions due to state budget cuts. The position would be partially funded by the VA agreement.

For the VA Agreement, CPE has received a COLA increase for FY2022 in the amount of \$9,280. Funding is available to reimburse staff work on the VA agreement, administrative allowance based on staff expenditures and travel related to the agreement. Currently the Administrators percent of time of the agreement has increased and the Administrative Assistant has been added to the agreement to assist with certain reviews. The amount of time dedicated to the VA agreement has a direct impact on licensing processes.

3. Application Backlog

CPE continues to experience a backlog of applications for processing of approximately six months. There are several factors contributing to the backlog:

- Incomplete/partial applications
- Large disorganized documents submitted in the CPE portal
- Issues with licensees completing backgrounds in a timely manner
- Additional criteria for VA submissions impacting processing time
- Continued high number of applications/licensees

4. Illegal Operations

CPE staff recently learned of a group claiming to operate Morrison University within the state of Nevada. The group has an operational website at www.morrisonuniversity.org and claims to be located in Reno, Nevada. Staff have received numerous injuries from students located in China and a recruiting company that signed a contract with the institution. These individuals have provided copies of school documents, an institutional website, an invalid CPE license and invalid Secretary of State registration. The Administrator has requested assistant from the Attorney Generals office as the students are not located within Nevada.

Morrison University was closed on 8/28/2014 along with Anthem College and does hold a valid license to operate in the state.

5. Closure Updates

University of Phoenix– The Teach out plan estimates a complete teach out by September 1, 2025.

6 **Quarterly Report** – With 53 schools unreported, the total enrollment for the October 1, 2021 – December 31, 2021 quarter stands at 6,224 new students. An update will be provided at the meeting.

Q3 201 updated to 9,896

Oct – Dec 2021	Oct - Dec 2020	Oct - Dec 2019	Oct - Dec 2018	Oct - Dec 2017
6,224	7,922	8,057	5,035	4,940

7. **CPE Quarterly Activities** – October 1, 2021 – December 31, 2021

CPE Activity	Number of Applications Processed	CPE Activity	Number of Applications Processed
License Renewals	11	Agent Permits	33
Experiential License	0	VA Compliance Visits/Other Visits	3
Transcripts	77	VA Program Approvals (individual programs)	82
Distance Education Exemptions	4	SARA Notifications	3
License Evaluations	6	School Audits	12
Added Facility	2	Added Program	16

8. **CPE Formal Student Complaints:** October 1, 2021 – December 31, 2021

CPE did not receive any formal complaints during the quarter.

To: CPE Commissioners

From: Maricris Wu, Postsecondary Education Specialist



Subject: Adult Care Connections
Dora Valentin, Owner

For Action: February 9, 2022

Adult Care Connections was granted provisional licensure on February 3, 2021 Commission meeting to offer the Medication Management certificate program consisting of 16 hours of training and taught over 2 days. This program is approved by Nevada the Bureau of Health Care Quality and Compliance (HCQC).

The provisional audit was conducted on December 16, 2021, in accordance of NAC 394.445 and concluded that the school substantially operates within the provision of the NRS and NAC Chapters 394, therefore staff recommends:

A Full-term licensure be granted to Adult Care Connections.

To: CPE Commissioners

From: Maricris Wu, Postsecondary Education Specialist




Subject: Arch Dental Assisting Academy
Haylee Stephens, Compliance

For Action: February 9, 2022

Arch Dental Assisting Academy formally known as Reno Dental Assisting School was granted provisional licensure on August 2019 Commission meeting to offer a dental assistant program. In August 2020 an extended provisional license of nine months was granted due to restrictions during the pandemic.

The provisional audit was conducted on January 3, 2021, in accordance with NAC 394.445 and concluded that the school substantially operates within the provision of the NRS and NAC Chapters 394, therefore staff recommends:

A Full-term license be granted to Arch Dental Assisting Academy.

To: CPE Commissioners
From: Maricris Wu, Postsecondary Education Specialist 
Subject: Coaching Pros for Personal Injury Academy
Jacqueline Villeda, Owner
For Action: February 9, 2022

Coaching Pros for Personal Injury Academy was granted provisional licensure at the February 3, 2021 Commission meeting to offer three certificate programs in Basic Foundation of Pre-litigation; Basic Foundation of Litigation and Advance Pre-litigation. The training provides educational training in personal case management and personal injury claims.

The provisional audit was conducted on December 17, 2021, in accordance of NAC 394.445 and concluded that the school substantially operates within the provision of the NRS and NAC Chapters 394, therefore staff recommends:

Full-term licensure be granted to Coaching Pros for Personal Injury Academy.

To: CPE Commissioners

From: Maricris Wu, Postsecondary Education Specialist
Kelly D. Wuest, CPE Administrator




Subject: ITeachNevada
Andrew Rozell, Executive Vice President
Kimberly Thaggard Ph.D., Regional Director

For Action: February 9, 2022

ITeachNevada was granted provisional licensure on February 3, 2021 Commission meeting to offer the Teacher certification program that consists of 585 hours. The program is offered online, individually paced, and competency based. The school's curriculum is approved by the Nevada Department of Education and accredited by the Council for Accreditation of Educator Preparation (CAEP)

The provisional audit occurred on December 16, 2021, in accordance of NAC 394.445 found significant issues with school documents and concluded that more time is required to ensure the institution can demonstrate its ability to comply with the provisions of the NRS and NAC Chapters 394, therefore the CPE Administrator recommends:

The provisional license for ITeachNevada be extended for an additional nine-month period.

To: CPE Commissioners
From: Maricris Wu, Postsecondary Education Specialist 
Subject: Phlebotomy Training Specialist
Brian Treu, Owner
Monica Sanborn, Director of Licensing
For Action: February 9, 2022

Phlebotomy Training Specialist was granted provisional licensure on February 3, 2021, Commission meeting to offer the phlebotomy training certificate program. The program consists of 40 hours didactic training and 80 hours clinical externship.

The provisional audit was conducted on January 7, 2022 in accordance of NAC 394.445 and concluded that the school substantially operates within the provision of the NRS and NAC Chapters 394, therefore staff recommends:

A Full-term license be granted to Phlebotomy Training Specialist.

To: CPE Commissioners

From: Maricris Wu, Postsecondary Education Specialist 

Subject: Sonder CNA Training
Carol Galbraith RN, Owner

For Action: February 9, 2022

Sonder CNA Training was granted provisional licensure on February 3, 2021 Commission meeting to offer a certificate program in the nursing assistant that consists of six weeks of training, 54 classroom hours, and 66 practical hours totaling 120 hours of training. The program is approved by the Nevada State Board of Nursing.

The provisional audit was conducted on January 4, 2022, in accordance with NAC 394.445 and concluded that the school substantially operates within the provision of the NRS and NAC Chapters 394, therefore staff recommends:

A Full-term license be granted to Sonder CNA.

Licensing Worksheet

Prepared by: Maricris Wu, Postsecondary Education Specialist 

Applicant: Angie LeBlanc, Licensing Coordinator
Dr. Jarrad Bencaz, Owner

School: Accelerated Dental Assisting Academy

For Action: February 9, 2022

Recommendation

That a twelve-month provisional license be granted to Accelerated Dental Assisting Academy to offer the Dental Assisting Certificate program contingent upon receipt of surety bond in the amount \$22,000, facility approval, personnel information and curriculum approval.

Curriculum: Curriculum received on December 13, 2021. Curriculum under pending review
CONTINGENCY.

Bond: Recommend amount is \$22,000 **CONTINGENCY.**

Financial Statement: Received on December 13, 2021 and reviewed on December 16-29, 2021.

Budget Estimate: Received on December 13, 2021 and reviewed on December 16-29, 2021.

Financial Release: Received on December 13, 2021 and reviewed on December 16-29, 2021.

Personnel Information: **CONTINGENCY.**

Certifications: Received on December 13, 2021 and reviewed on December 16-29, 2021.

Catalog: Received on December 13, 2021, pending review.

Contract: Received on December 13, 2021, pending review.

Completion Certificates: Received on December 13, 2021 and reviewed on December 16-29, 2021.

Facility Information: **CONTINGENCY.**

Fees: Received on December 13, 2021.

To: CPE Commissioners

From: Kelly Wuest, Administrator

Subject: Proposed Changes to NAC 394.381 and NAC 394. 391 concerning financial stability

For Action: February 9, 2021

Background: Every ten years, Commission staff review the NAC for potential revisions to improve operations and clarify regulations. NAC regulations were last updated in 2012. Financial stability is one of the foundations of ensuring a private postsecondary institution is capable of providing quality education to students. Over the last several years, the Commission has witnessed institution experience issues with financial solvency resulting in court appointed receiverships and campus closures ultimately harming students.

Currently the following statutes exist concerning the topic of financial conditions.

- NRS 394.445 requires a private postsecondary institution to be financially sound and capable of fulfilling its commitments to students.
- NRS 3.94.460 identifies the financial statement of institutions as confidential.
- NAC 394.381, outlines the requirements for initial application submission requiring a financial statement prepared by a Certified Public Accountant.
- NAC 394.391 requires the institution submit a financial statement with the renewal application.

In both NAC reference of financial stability, the regulation only provides the required document to submit but provides no definition of what comprises financial soundness.

The following exploratory questions concerning financial stability are to aid in whether the regulations surrounding financial stability require revision and the direction these changes would take.

Should the NAC distinguish between the required documents of accredited institution and non-accredited institutions?

Rationale for change: Accredited institutions are required to provide an audited financial statement each year to DE and/or the accrediting body. Providing this document to the Commission as part of an initial application or renewal does not result in any hardship or financial burden to the accredit institution as it is a normal aspect of operation. These

institutions also receive a composite score from DE which may indicate issues with the institution's financial stability on a corporate level and may aid in the evaluation.

For unaccredited institutions, the CPE reviewed or audited financial is a significant expense and serves as a nature deterrent to becoming licensed with the Commission. Applicants have indicated expense ranging from \$2,500 to \$10,000 for this CPA prepared document and months to prepare. If the applicant has recently established the business, the related CPA reviewed financial statement provides a shell of the planned operation without providing a clear indication of the applicant's financial soundness. If the financial statement is reviewed, the CPA is only attesting to the way the document was prepared and not the validity of the information in the financial statement. Are there better indicators of financial soundness like self-prepared financial statements requiring specific identification of assets and liabilities paired with tax filings? Currently, institutions renewing a license can elect to provide a self-prepared financial statement versus the CPA prepared documents.

Should the Commission require institutions with non-main campuses to provide financial information on both the campus and institutional level?

Rationale for change: Currently, the regulations do not specify whether institutions report financial condition at the campus level or the institution as a whole. In reviewing the financial reports provided to CPE from institutions that have closed due to financial stability, all provided only campus level financial information which provided no indicators of financial trouble. Would it be beneficial to require both campus level and corporate financial information?

Should the Commission add minimum criteria to the meaning of financial stability.

Rationale for change: Currently, the regulation defines the documents required to be submitted to the Commission at time of various applications but there are no regulatory minimums established for areas like cash on hand, DE composite score, or asset/debt ratio. The regulation does not provide requirements in the case of Receivership and has blocked the Commission's ability to immediately collect the surety bond to protect students.

Potential Actions:

Request additional information or research on any discussed topic.

Request staff to develop language for specific changes.

Decide to leave the current regulations as is.

NRS 394 and NAC 394 addressing financial conditions

NRS 394.445 Financial condition; false or misleading advertising prohibited; employment of personnel. A postsecondary educational institution:

1. Must be financially sound and capable of fulfilling its commitments to students.
2. Shall not engage in advertising, sales, collection, credit or other practices of any type which are false, deceptive, misleading or unfair.
3. Shall employ persons of good reputation and character.

NAC 394.381 Provisional licenses: Submission of application. (NRS 394.411, 394.421, 394.441, 394.445, 394.450, 394.460, 394.480) 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 payments 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 dates 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.

(Added to NAC by Comm'n on Postsecondary Educ. by R042-11, eff. 5-30-2012)

NAC 394.391 Renewal of license. (NRS 394.411, 394.445, 394.460) 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.

(Added to NAC by Comm'n on Postsecondary Educ. by R042-11, eff. 5-30-2012)

NRS 394.460 License: Application; issuance; provisional license; term; change in ownership or location; addition to facilities; renewal.

1. Each person required to be licensed as a postsecondary educational institution by the Commission or each postsecondary educational institution requesting to add a new program or degree or to renew a license must apply to the Administrator, upon forms provided by the Administrator. The application must be accompanied by the required fees. The institution's curriculum and financial statement are confidential except as otherwise provided in NRS 239.0115 or unless, in the opinion of the Commission, they militate against the issuance of a license.

To: CPE Commissioners

From: Kelly Wuest, Administrator

Subject: Proposed Changes to NAC 441A

For Action: February 9, 2021

Background: NAC 441A 775: **University students: Proof of immunity to certain communicable diseases required; exceptions; exclusion from university**, requires certain universities to verify immunization requirements of freshman students under the age of 23 prior to enrollment. This regulation is overseen by the Department of Health and Human Services, Division of Public and Behavioral Health and has had limited impact on CPE licensees with the current language. Currently only 9 CPE licensed institutions are impacted by NAC 441A.775.

R069-21 proposes requirements for all CPE licensees and the Nevada System of Higher Education to require COVID-19 immunization prior to admittance.

- Creates new admission criteria for all in person training regardless of length of training
- Requires institutions to maintain computerized records concerning student immunization or maintenance of paper forms provided by NSBH
- Fails to include institutions licensed by the Nevada Board of Cosmetology and Nevada Barbers Health and Sanitation Board.

CPE only learned of the proposed regulatory change after CPE licensees received a Small Business Impact Questionnaire from the Division of Public and Behavioral Health on December 2, 2021. This questionnaire was sent out the same day CPE received a public information request from a representative of NSHE for a list of all private postsecondary institutions with staffing below 150 employees. As the Commission does not maintain records of staffing levels, NSHE was provided a list of all licensees.

CPE staff received numerous calls and emails from institutions about the questionnaire and how to estimate the impact to their institutions. Several institutions have expressed to CPE, that the questionnaire required institutions to provide detailed costs of projected expenses but only allowed for a 5-day window to submit responses. As CPE staff or the Commission Chair was not included in the dialog for the changes to NAC 441A.755, it was difficult to provide institutions the appropriate guidance.

The public workshops scheduled by the State Board of Health for December 2021 and January 2022 were cancelled due to the emergency regulations not being passed by the

Legislative Commission. On January 14, 2022 the Nevada Board of Regents voted to support a student vaccination mandate for all sending a letter of support to the Governor. As this proposed change to NAC 441A.775 has not been removed from consideration and vaccine requirements are likely to be proposed again in permanent regulation, this item is being presented to the Commission to consider constructing a formal response to the State Board of Health to request inclusion in the revisions of the proposed language of R069-21 or subsequent regulations impacting private postsecondary institutions.

Since the beginning of the pandemic, there have been no substantial COVID 19 outbreaks reported in Nevada private postsecondary institutions. Many of the private universities have elected to remain in remote learning while small institutions offer cohorted programs, restructured learning environments and have reduced class sizes where any exposure is isolated to a specific portion of the student population. This has enabled the institutions to respond and adjust individual cohorts to swart off large outbreaks and remain operational.

If passed, the regulation would take effect upon passage. While NSHE has had significant time to construct a process and provided state funds to effectuate such a change, private postsecondary institutions would be required to implement admissions criteria without such benefits. Included in the packet is the proposed regulatory change the NAC 441A.775 and the DPBH small business impact statement 2021 constructed from the small business questionnaire.

Potential Action:

This item has been brought to the Commission to discuss and possibility construct a response to the Department of Health and Human Services, Division of Public and Behavioral Health for inclusion in the dialog and development of any Nevada Administrative Code requirements for private postsecondary institutions.

Steve Sisolak
Governor



Richard Whitley, MS
Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

SMALL BUSINESS IMPACT STATEMENT 2021

PROPOSED AMENDMENTS TO NAC 441A.755

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments will have adverse effect upon the Nevada institutions of higher education and negatively impact the formation, operation, or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

- Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational institutions. (NRS 441A.120) Existing regulations prohibit, with certain exceptions, a person from attending a university until he or she submits to the university proof of immunity to certain communicable diseases. (NAC 441A.755)
- Section 4 of this regulation makes this requirement applicable to state colleges and community colleges on July 1, 2024. Section 3 of this regulation prohibits a person from attending a postsecondary educational institution until he or she submits proof of immunity to COVID-19, effective upon the submission of this regulation to the Secretary of State. Existing regulations require the Division of Public and Behavioral Health of the Department of Health and Human Services to establish the immunization schedule required for the admission of a student. (NAC 441A.755)
- Section 3 removes that requirement. Instead, section 2 of this regulation adopts by reference certain publications of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, and section 3 requires the proof of immunity submitted by a student to demonstrate that the student has acquired immunity in accordance with those publications. Existing regulations exempt any student who is enrolled in a program of distance education and who does not attend a class on campus from immunization requirements. (NAC 441A.755)
- Section 3 requires a student who does not attend class on campus but attends a club, sport or other extracurricular activity on campus to demonstrate the required immunity. Existing regulations authorize certain persons to apply for a variance from a regulation of the State Board of Health. (NAC 439.200-439.280)

- Sections 1 and 3 of this regulation provide that any person who is required to submit proof of immunity to certain communicable diseases to attend a postsecondary educational institution is ineligible to request a variance from a regulation of the Board relating to that requirement.

1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health has requested input from the Nevada postsecondary educational institutions.

On December 3rd, 2021, a Small Business Impact Questionnaire was sent to 135 Nevada postsecondary educational institutions along with a copy of the proposed regulation changes. The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

Summary Of Comments Received (45 responses were received out of 135 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 29	Yes-3	Yes-27	Yes-3
No- 16	No- 42	No- 18	No- 41
No Response- 0	No Response- 0	No Response- 0	No Response- 1

Number of Respondents out 135	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
45	29	3	27	3

2) Describe the manner in which the analysis was conducted.

The Division of Public and Behavioral Health prepared and distributed a Small Business Impact Questionnaire to the Nevada institutions of higher education which would qualify as a small business. The Nevada State Immunization Program (NSIP) considered the impact on Nevada institutions of higher education through a review of the proposed regulations. Results from the Small Business Impact Questionnaire were entered into Survey Monkey which created a spreadsheet for analysis. NSIP reached out to several respondents to answer questions/concerns and followed up with each institution over the phone to ensure they received the survey. A Public Workshop will be held on December 28, 2021 at 8:00 a.m., to allow for further input by the public and regulated community regarding the proposed regulations and how they will impact the Nevada institutions of higher education. Any comments will be taken into consideration for possible revisions to the regulations to reduce the economic impact on facilities.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

29 of 45 respondents (64%) believe the proposed regulation will have an estimated economic effect on the Nevada institutions of higher education. Respondents are primarily concerned there will be a significant loss of students attending and more administrative support and funding needed for the institutions to implement the rule if the proposed regulation passes.

4) Provide a description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In consideration of immediate and future interests in protecting public health amongst student populations, the Division of Public and Behavioral Health differentiates in the proposed regulations the effective date of immunization for COVID-19, versus the other required student immunizations. Due to a concern for public health, the requirement for COVID-19 vaccination will go into effect immediately. However, the requirements for the other immunizations (e.g. tetanus, diphtheria, measles, mumps, rubella) will not go into effect until 2024, allowing these small business postsecondary educational institutions the time needed to implement this requirement.

In addition to the Small Business Impact Questionnaires, the Division of Public and Behavioral Health will provide additional opportunities for Nevada institutions of higher education to provide input and comments regarding the proposed immunization regulations, including the economic impact the proposed regulations may have on Nevada institutions of higher education. A Public Workshop will be held on December 28, 2021 at 8:00 a.m., allowing for further input by the Nevada institutions of higher education regarding the proposed regulations and how they will impact the Nevada institutions of higher education. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

5) The estimated cost to the agency for enforcement of the proposed regulation.

There is no cost to the agency for enforcement of the proposed regulations.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.

Not applicable.

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

The proposed regulations are more stringent than federal law because there are no federal laws on student vaccination; however, these regulations are not more stringent than current state/local immunization laws regarding the use of an immunization requirement for post-secondary schools. These regulations are necessary to close a loophole in the current law to ensure that all Nevada state school institutions follow the same guidelines as post-secondary school institutions. Additionally, these regulations are necessary to add a requirement for COVID-19 vaccination to protect students of Nevada institutions of higher education from COVID-19.

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The reason for the conclusion of the agency to mandate COVID-19 vaccinations for all Nevada institutions of higher education, as well as mandate of both COVID-19 vaccination and other routine vaccinations for state and community colleges (e.g. tetanus, diphtheria, measles, mumps, rubella) is to protect the public health of student populations.

Overall, the proposed regulations will have an impact on Nevada postsecondary educational institutions.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Shannon Bennett at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89701
Shannon Bennett
Phone: (775) 350-5261
Email: iz@health.nv.gov

Certification by Person Responsible for the Agency

I, Lisa Sherych, Administrator of the Division of Public and Behavioral Health certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Signature  Date: 12/10/2021

To: CPE Commissioners

From: Kelly Wuest, Administrator

Subject: Proposed Changes to NAC 441A

For Action: February 9, 2021

Background: NAC 441A 775: **University students: Proof of immunity to certain communicable diseases required; exceptions; exclusion from university**, requires certain universities to verify immunization requirements of freshman students under the age of 23 prior to enrollment. This regulation is overseen by the Department of Health and Human Services, Division of Public and Behavioral Health and has had limited impact on CPE licensees with the current language. Currently only 9 CPE licensed institutions are impacted by NAC 441A.775.

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The public workshops scheduled by the State Board of Health for December 2021 and January 2022 were cancelled due to the emergency regulations not being passed by the

Legislative Commission. On January 14, 2022 the Nevada Board of Regents voted to support a student vaccination mandate for all sending a letter of support to the Governor. As this proposed change to NAC 441A.775 has not been removed from consideration and vaccine requirements are likely to be proposed again in permanent regulation, this item is being presented to the Commission to consider constructing a formal response to the State Board of Health to request inclusion in the revisions of the proposed language of R069-21 or subsequent regulations impacting private postsecondary institutions.

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If passed, the regulation would take effect upon passage. While NSHE has had significant time to construct a process and provided state funds to effectuate such a change, private postsecondary institutions would be required to implement admissions criteria without such benefits. Included in the packet is the proposed regulatory change the NAC 441A.775 and the DPBH small business impact statement 2021 constructed from the small business questionnaire.

Potential Action:

This item has been brought to the Commission to discuss and possibility construct a response to the Department of Health and Human Services, Division of Public and Behavioral Health for inclusion in the dialog and development of any Nevada Administrative Code requirements for private postsecondary institutions.

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R069-21

December 1, 2021

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

AUTHORITY: §§ 1-5, NRS 439.200 and 441A.120.

A REGULATION relating to immunizations; revising requirements governing the immunization of students at postsecondary educational institutions; prohibiting requests for a variance from such requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational institutions. (NRS 441A.120) Existing regulations prohibit, with certain exceptions, a person from attending a university until he or she submits to the university proof of immunity to certain communicable diseases. (NAC 441A.755) **Section 4** of this regulation makes this requirement applicable to state colleges and community colleges on July 1, 2024. **Section 3** of this regulation prohibits a person from attending a postsecondary educational institution until he or she submits proof of immunity to COVID-19, effective upon the submission of this regulation to the Secretary of State.

Existing regulations require the Division of Public and Behavioral Health of the Department of Health and Human Services to establish the immunization schedule required for the admission of a student. (NAC 441A.755) **Section 3** removes that requirement. Instead, **section 2** of this regulation adopts by reference certain publications of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, and **section 3** requires the proof of immunity submitted by a student to demonstrate that the student has acquired immunity in accordance with those publications.

Existing regulations exempt any student who is enrolled in a program of distance education and who does not attend a class on campus from immunization requirements. (NAC 441A.755) **Section 3** requires a student who does not attend class on campus but attends a club, sport or other extracurricular activity on campus to demonstrate the required immunity.

Existing regulations authorize certain persons to apply for a variance from a regulation of the State Board of Health. (NAC 439.200-439.280) **Sections 1 and 3** of this regulation provide that any person who is required to submit proof of immunity to certain communicable diseases to attend a postsecondary educational institution is ineligible to request a variance from a regulation of the Board relating to that requirement.

Section 1. NAC 439.200 is hereby amended to read as follows:

439.200 1. ~~{Any}~~ *Except as otherwise provided in NAC 441A.755, any* person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgment of a substantial property right may apply for a variance from the regulation.

2. An application for such a variance must be made to the State Board of Health unless the regulation is enforced by a district board of health, in which case the application must be made to the appropriate district board.

Sec. 2. NAC 441A.200 is hereby amended to read as follows:

441A.200 1. Except as otherwise provided in subsection 2, the following recommendations, guidelines and publications are adopted by reference:

(a) The standard precautions to prevent transmission of disease by contact with blood or other body fluids as recommended by the Centers for Disease Control and Prevention in “Perspectives in Disease Prevention and Health Promotion Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings,” *Morbidity and Mortality Weekly Report* [37(24):377-388, June 24, 1988], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(b) The Centers for Disease Control and Prevention’s *2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, published by the United States Department of Health and Human Services and available at no cost on the Internet at ~~<https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines.pdf;>~~

<http://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf>, or, if that Internet website ceases to exist, from the Division.

(c) The recommended guidelines for the investigation, prevention, suppression and control of communicable disease set forth by the Centers for Disease Control and Prevention in:

(1) “General Recommendations on Immunization: Recommendations of the Advisory Committee on Immunization Practices,” *Morbidity and Mortality Weekly Report* [55(RR15):1-48, December 1, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division; and

(2) *Manual for the Surveillance of Vaccine-Preventable Diseases*, 4th edition, published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/vaccines/pubs/surv-manual/index.html>, or, if that Internet website ceases to exist, from the Division.

(d) The recommended guidelines for the investigation, prevention, suppression and control of communicable diseases contained in *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association and available for the price of ~~138.50~~ \$49 for members and ~~155.00~~ \$70 for nonmembers from the American Public Health Association, 800 I Street, N.W., Washington, D.C. 20001-3710, or at the Internet address <http://www.apha.org>.

(e) The recommended guidelines for the investigation, prevention, suppression and control of communicable diseases contained in *Red Book: 2015 Report of the Committee on Infectious Diseases*, 30th edition, published by the American Academy of Pediatrics and available for the price of ~~75.00~~ \$119.95 for members and ~~149.95~~ \$149.95 for nonmembers from the

American Academy of Pediatrics, ~~{141 Northwest Point}~~ **345 Park** Boulevard, ~~{Elk Grove Village,}~~ **Hasca**, Illinois ~~{60007,}~~ **60143**, or at the Internet address ~~{http://www.aap.org}~~ <https://shop.aap.org>.

(f) The recommendations for the testing, treatment, prevention, suppression and control of chancroid, *Chlamydia trachomatis*, gonococcal infection, granuloma inguinale, lymphogranuloma venereum and infectious syphilis as are specified in “Sexually Transmitted Diseases Treatment Guidelines, 2006,” *Morbidity and Mortality Weekly Report* [55(RR11):1-94, August 4, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(g) The recommendations for the counseling of and effective treatment for a person having active tuberculosis or tuberculosis infection as set forth in:

(1) “Controlling Tuberculosis in the United States: Recommendations from the American Thoracic Society, CDC, and the Infectious Diseases Society of America,” *Morbidity and Mortality Weekly Report* [54(RR12):1-81, November 4, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(2) “Treatment of Tuberculosis,” *Morbidity and Mortality Weekly Report* [52(RR11):1-77, June 20, 2003], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(3) “Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection,” *Morbidity and Mortality Weekly Report* [49(RR06):1-54, June 9, 2000], published by the United

States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(4) The recommendations of the Centers for Disease Control and Prevention for preventing and controlling tuberculosis in correctional and detention facilities set forth in “Prevention and Control of Tuberculosis in Correctional and Detention Facilities: Recommendations from CDC,” *Morbidity and Mortality Weekly Report* [55(RR9):1-44, July 7, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division; and

(5) “Guidelines for the Investigation of Contacts of Persons with Infectious Tuberculosis: Recommendations from the National Tuberculosis Controllers Association and CDC,” *Morbidity and Mortality Weekly Report* [54(RR15):1-37, December 16, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(h) The recommendations of the Centers for Disease Control and Prevention for preventing the transmission of tuberculosis in facilities providing health care set forth in “Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005,” *Morbidity and Mortality Weekly Report* [54(RR17):1-141, December 30, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(i) “Case Definitions for Infectious Conditions Under Public Health Surveillance,” *Morbidity and Mortality Weekly Report* [46(RR10):1-55, May 2, 1997], published by the United States

Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(j) “Recommended Antimicrobial Agents for Treatment and Postexposure Prophylaxis of Pertussis: 2005 CDC Guidelines,” *Morbidity and Mortality Weekly Report* [54(RR14):1-16, December 9, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(k) “Updated Recommendations for Isolation of Persons with Mumps,” *Morbidity and Mortality Weekly Report* [57(40):1103-1105, October 10, 2008], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(l) “Recommendations for Partner Services Programs for HIV Infection, Syphilis, Gonorrhea, and Chlamydial Infection,” *Morbidity and Mortality Weekly Report* [57(RR09):1-83, November 7, 2008], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(m) “Facility Guidance for Control of Carbapenem-resistant Enterobacteriaceae (CRE),” published by the United States Department of Health and Human Services and available at no cost from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services on the Internet at <https://www.cdc.gov/hai/organisms/cre/cre-toolkit/index.html>, or, if that Internet website ceases to exist, from the Division.

(n) “Interim guidance for a Health Response to Contain Novel or Targeted Multidrug-resistant Organisms (MRDOs),” published by the United States Department of Health and

Human Services and available at no cost from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services on the Internet at

~~<https://www.cdc.gov/hai/outbreaks/docs/Health-Response-Contain-MDRO.pdf>~~,

<https://www.cdc.gov/hai/pdfs/containment/Health-Response-Contain-MDRO-H.pdf>, or, if that

Internet website ceases to exist, from the Division.

(o) The guidelines for the prevention, postexposure management and control of rabies as specified in the “Compendium of Animal Rabies Prevention and Control, 2016,” published by the National Association of State Public Health Veterinarians and available at no cost on the Internet at <http://nasphv.org/documentsCompendiaRabies.html>, or, if that Internet website ceases to exist, from the Division.

(p) “Carbapenemase Producing Carbapenem-Resistant Enterobacteriaceae (CP-CRE) 2018 Case Definition,” published by the United States Department of Health and Human Services and available at no cost on the Internet ~~at <https://www.cdc.gov/nndss/conditions/carbapenemase-producing-carbapenem-resistant-enterobacteriaceae/case-definition/2018/>~~,

<https://ndc.services/cdc.gov/case-definitions/carbapenemase-producing-carbapenem-resistant-enterobacteriaceae-2018/>, or, if that Internet website ceases to exist, from the Division.

(q) The immunization schedules published by the United States Department of Health and Human Services and available at no cost on the Internet at <https://www.cdc.gov/vaccines/schedules/hcp/index.html>, or, if that Internet website ceases to exist, from the Division.

(r) “Epidemiology and Prevention of Vaccine-Preventable Diseases,” 14th Edition, published by the United States Department of Health and Human Services and available at no

cost on the Internet at <https://www.cdc.gov/vaccines/pubs/pinkbook/index.html>, or, if that Internet website ceases to exist, from the Division.

2. Except as otherwise provided in this subsection, the most current version of a recommendation, guideline or publication adopted by reference pursuant to subsection 1 which is published will be deemed to be adopted by reference. If both the state and local health authorities determine that an update of or revision to a recommendation, guideline or publication described in subsection 1 is not appropriate for use in the State of Nevada, the Chief Medical Officer will present this determination to the Board and the update or revision, as applicable, will not be adopted. If the agency or other entity that publishes a recommendation, guideline or publication described in subsection 1 ceases to publish the recommendation, guideline or publication:

(a) The last version of the recommendation, guideline or publication that was published before the agency or entity ceased to publish the recommendation, guideline or publication shall be deemed to be the current version; and

(b) The recommendation, guideline or publication will be made available on an Internet website maintained by the Division.

NEW FIRST
PARALLEL
SECTION

Sec. 3. NAC 441A.755 is hereby amended to read as follows:

441A.755 1. Except as otherwise provided in subsection ~~10~~ **11** or unless excused because of religious belief or medical condition, a person shall not attend ~~at~~ :

(a) *A* university until he or she submits to the university proof *that meets the requirements of subsection 3* of immunity to tetanus, diphtheria, measles, mumps, rubella and any other disease specified by the State Board of Health. ~~{The Division shall establish the immunization schedule required for admission of the student.}~~

(b) A postsecondary educational institution until he or she submits to the postsecondary educational institution proof that meets the requirements of subsection 3 of immunity to COVID-19.

2. Except as otherwise provided in subsection ~~10~~ 11 or unless excused because of religious belief or medical condition, a person who:

(a) Is less than 23 years of age; and

(b) Is enrolled as a freshman,

↪ shall not attend a university until he or she submits to the university proof *that meets the requirements of subsection 3* of immunity to *Neisseria meningitidis*. ~~{The Division shall establish the immunization schedule required for admission of the student.}~~

3. *The proof of immunity required by subsection 1 or 2 must demonstrate that the student has:*

(a) Been immunized in accordance with the applicable immunization schedule adopted by reference in paragraph (q) of subsection 1 of NAC 441A.200; or

(b) Otherwise acquired the required immunity in a manner described in the publication adopted by reference in paragraph (r) of subsection 1 of NAC 441A.200.

4. A student may enroll in ~~{the university}~~ *a postsecondary educational institution* conditionally if the student, or if the student is a minor, the parent or legal guardian of the student, submits a record of immunization stating that the student is in the process of obtaining the required immunizations, and that record shows that the student has made satisfactory progress toward obtaining those immunizations.

~~{4. The university}~~ 5. *A postsecondary educational institution* shall retain the proof of immunity on a computerized record or on a form provided by the Division.

~~{5.—The university}~~ 6. *A postsecondary educational institution* shall not refuse to enroll a student because he or she has not been immunized if the student, or if the student is a minor, the parent or legal guardian of the student, has submitted to the ~~{university}~~ *postsecondary educational institution* a written statement indicating that his or her religious belief prohibits immunizations. The ~~{university}~~ *postsecondary educational institution* shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the ~~{university:}~~ *postsecondary educational institution:*

(a) Annually, according to the registration schedule of the ~~{university}~~ *postsecondary educational institution* for the duration of the enrollment of the student at the ~~{university:}~~ *postsecondary educational institution;* and

(b) On a form provided by the Division.

~~{6.}~~ 7. If the medical condition of a student does not permit him or her to be immunized to the extent required, the student, or if the student is a minor, the parent or legal guardian of the student, must submit to the ~~{university}~~ *postsecondary educational institution* a statement of that fact written by a licensed physician. The ~~{university}~~ *postsecondary educational institution* shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the ~~{university}~~ *postsecondary educational institution* on a form provided by the Division.

~~{7.}~~ 8. If additional requirements of immunity are imposed by law after a student has been enrolled in ~~{the university,}~~ *a postsecondary educational institution*, the student, or if the student is a minor, the parent or legal guardian of the student, shall submit an additional proof of immunity to the ~~{university}~~ *postsecondary educational institution* stating that the student has met the new requirements of immunity.

~~{8.}~~ 9. If the health authority determines that, at ~~{the university,}~~ *a postsecondary educational institution*, there is a case having a communicable disease against which immunity is required for admission to the ~~{university,}~~ *postsecondary educational institution*, and a student who has not submitted proof of immunity to that disease is attending that ~~{university,}~~ *postsecondary educational institution*, the president of the ~~{university}~~ *postsecondary educational institution* shall require that:

- (a) The student be immunized; or
- (b) The student be excluded from the ~~{university}~~ *postsecondary educational institution* until allowed to return by the health authority.

~~{9.}~~ 10. A student shall not attend a ~~{university}~~ *postsecondary educational institution* from which he or she is excluded until allowed to return by the health authority. The parent or legal guardian of a student, if the student is a minor, shall not allow the student to attend a ~~{university}~~ *postsecondary educational institution* from which he or she is excluded until allowed to return by the health authority.

~~{10.}~~ 11. Any student who is enrolled in a program of distance education and who does not attend a class *or participate in a club, sport or extracurricular activity* on campus is exempt from the requirements of this section.

~~{11.}~~ 12. *Any person who is subject to the provisions of this section is not eligible to request a variance pursuant to NAC 439.200 to 439.280, inclusive.*

13. As used in this section:

- (a) *“Community college” means any community college within the Nevada System of Higher Education.*

(b) “Postsecondary educational institution” has the meaning ascribed to it in NRS 394.099 ~~†~~
~~—(b)† and also includes a university, state college or community college.~~

(c) “State college” means any state college within the Nevada System of Higher Education.

(d) “University” means any university within the Nevada System of Higher Education or any private postsecondary educational institution.

NEW
SECOND
PARALLEL
SECTION

Sec. 4. NAC 441A.755 is hereby amended to read as follows:

441A.755 1. Except as otherwise provided in subsection 11 or unless excused because of religious belief or medical condition, a person shall not attend ~~†~~

~~—(a) A university† a postsecondary educational institution~~ until he or she submits to the university proof that meets the requirements of subsection 3 of immunity to *COVID-19*, tetanus, diphtheria, measles, mumps, rubella and any other disease specified by the State Board of Health.

~~†(b) A postsecondary educational institution until he or she submits to the postsecondary educational institution proof that meets the requirements of subsection 3 of immunity to COVID-19.†~~

2. Except as otherwise provided in subsection 11 or unless excused because of religious belief or medical condition, a person who:

(a) Is less than 23 years of age; and

(b) Is enrolled as a freshman,

↪ shall not attend a ~~†university†~~ *postsecondary educational institution* until he or she submits to the ~~†university†~~ *postsecondary educational institution* proof that meets the requirements of subsection 3 of immunity to *Neisseria meningitidis*.

3. The proof of immunity required by subsection 1 or 2 must demonstrate that the student has:

(a) Been immunized in accordance with the applicable immunization schedule adopted by reference in paragraph (q) of subsection 1 of NAC 441A.200; or

(b) Otherwise acquired the required immunity in a manner described in the publication adopted by reference in paragraph (r) of subsection 1 of NAC 441A.200.

4. A student may enroll in a postsecondary educational institution conditionally if the student, or if the student is a minor, the parent or legal guardian of the student, submits a record of immunization stating that the student is in the process of obtaining the required immunizations, and that record shows that the student has made satisfactory progress toward obtaining those immunizations.

5. A postsecondary educational institution shall retain the proof of immunity on a computerized record or on a form provided by the Division.

6. A postsecondary educational institution shall not refuse to enroll a student because he or she has not been immunized if the student, or if the student is a minor, the parent or legal guardian of the student, has submitted to the postsecondary educational institution a written statement indicating that his or her religious belief prohibits immunizations. The postsecondary educational institution shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the postsecondary educational institution:

(a) Annually, according to the registration schedule of the postsecondary educational institution for the duration of the enrollment of the student at the postsecondary educational institution; and

(b) On a form provided by the Division.

7. If the medical condition of a student does not permit him or her to be immunized to the extent required, the student, or if the student is a minor, the parent or legal guardian of the student, must submit to the postsecondary educational institution a statement of that fact written by a licensed physician. The postsecondary educational institution shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the postsecondary educational institution on a form provided by the Division.

8. If additional requirements of immunity are imposed by law after a student has been enrolled in a postsecondary educational institution, the student, or if the student is a minor, the parent or legal guardian of the student, shall submit an additional proof of immunity to the postsecondary educational institution stating that the student has met the new requirements of immunity.

9. If the health authority determines that, at a postsecondary educational institution, there is a case having a communicable disease against which immunity is required for admission to the postsecondary educational institution, and a student who has not submitted proof of immunity to that disease is attending that postsecondary educational institution, the president of the postsecondary educational institution shall require that:

(a) The student be immunized; or

(b) The student be excluded from the postsecondary educational institution until allowed to return by the health authority.

10. A student shall not attend a postsecondary educational institution from which he or she is excluded until allowed to return by the health authority. The parent or legal guardian of a student, if the student is a minor, shall not allow the student to attend a postsecondary

educational institution from which he or she is excluded until allowed to return by the health authority.

11. Any student who is enrolled in a program of distance education and who does not attend a class or participate in a club, sport or extracurricular activity on campus is exempt from the requirements of this section.

12. Any person who is subject to the provisions of this section is not eligible to request a variance pursuant to NAC 439.200 to 439.280, inclusive.

13. As used in this section:

(a) “Community college” means any community college within the Nevada System of Higher Education.

(b) “Postsecondary educational institution” has the meaning ascribed to it in NRS 394.099 and also includes a university, state college or community college.

(c) “State college” means any state college within the Nevada System of Higher Education.

(d) “University” means any university within the Nevada System of Higher Education or any private postsecondary educational institution.

Sec. 5. 1. This section and sections 1, 2 and 3 of this regulation become effective on the date on which this regulation is filed with the Secretary of State.

2. Section 4 of this regulation becomes effective on July 1, 2024.

Steve Sisolak
Governor



Richard Whitley, MS
Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

SMALL BUSINESS IMPACT STATEMENT 2021

PROPOSED AMENDMENTS TO NAC 441A.755

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments will have adverse effect upon the Nevada institutions of higher education and negatively impact the formation, operation, or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

- Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational institutions. (NRS 441A.120) Existing regulations prohibit, with certain exceptions, a person from attending a university until he or she submits to the university proof of immunity to certain communicable diseases. (NAC 441A.755)
- Section 4 of this regulation makes this requirement applicable to state colleges and community colleges on July 1, 2024. Section 3 of this regulation prohibits a person from attending a postsecondary educational institution until he or she submits proof of immunity to COVID-19, effective upon the submission of this regulation to the Secretary of State. Existing regulations require the Division of Public and Behavioral Health of the Department of Health and Human Services to establish the immunization schedule required for the admission of a student. (NAC 441A.755)
- Section 3 removes that requirement. Instead, section 2 of this regulation adopts by reference certain publications of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, and section 3 requires the proof of immunity submitted by a student to demonstrate that the student has acquired immunity in accordance with those publications. Existing regulations exempt any student who is enrolled in a program of distance education and who does not attend a class on campus from immunization requirements. (NAC 441A.755)
- Section 3 requires a student who does not attend class on campus but attends a club, sport or other extracurricular activity on campus to demonstrate the required immunity. Existing regulations authorize certain persons to apply for a variance from a regulation of the State Board of Health. (NAC 439.200-439.280)

- Sections 1 and 3 of this regulation provide that any person who is required to submit proof of immunity to certain communicable diseases to attend a postsecondary educational institution is ineligible to request a variance from a regulation of the Board relating to that requirement.

1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health has requested input from the Nevada postsecondary educational institutions.

On December 3rd, 2021, a Small Business Impact Questionnaire was sent to 135 Nevada postsecondary educational institutions along with a copy of the proposed regulation changes. The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

Summary Of Comments Received (45 responses were received out of 135 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 29	Yes-3	Yes-27	Yes-3
No- 16	No- 42	No- 18	No- 41
No Response- 0	No Response- 0	No Response- 0	No Response- 1

Number of Respondents out 135	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
45	29	3	27	3

2) Describe the manner in which the analysis was conducted.

The Division of Public and Behavioral Health prepared and distributed a Small Business Impact Questionnaire to the Nevada institutions of higher education which would qualify as a small business. The Nevada State Immunization Program (NSIP) considered the impact on Nevada institutions of higher education through a review of the proposed regulations. Results from the Small Business Impact Questionnaire were entered into Survey Monkey which created a spreadsheet for analysis. NSIP reached out to several respondents to answer questions/concerns and followed up with each institution over the phone to ensure they received the survey. A Public Workshop will be held on December 28, 2021 at 8:00 a.m., to allow for further input by the public and regulated community regarding the proposed regulations and how they will impact the Nevada institutions of higher education. Any comments will be taken into consideration for possible revisions to the regulations to reduce the economic impact on facilities.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

29 of 45 respondents (64%) believe the proposed regulation will have an estimated economic effect on the Nevada institutions of higher education. Respondents are primarily concerned there will be a significant loss of students attending and more administrative support and funding needed for the institutions to implement the rule if the proposed regulation passes.

4) Provide a description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In consideration of immediate and future interests in protecting public health amongst student populations, the Division of Public and Behavioral Health differentiates in the proposed regulations the effective date of immunization for COVID-19, versus the other required student immunizations. Due to a concern for public health, the requirement for COVID-19 vaccination will go into effect immediately. However, the requirements for the other immunizations (e.g. tetanus, diphtheria, measles, mumps, rubella) will not go into effect until 2024, allowing these small business postsecondary educational institutions the time needed to implement this requirement.

In addition to the Small Business Impact Questionnaires, the Division of Public and Behavioral Health will provide additional opportunities for Nevada institutions of higher education to provide input and comments regarding the proposed immunization regulations, including the economic impact the proposed regulations may have on Nevada institutions of higher education. A Public Workshop will be held on December 28, 2021 at 8:00 a.m., allowing for further input by the Nevada institutions of higher education regarding the proposed regulations and how they will impact the Nevada institutions of higher education. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

5) The estimated cost to the agency for enforcement of the proposed regulation.

There is no cost to the agency for enforcement of the proposed regulations.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.

Not applicable.

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

The proposed regulations are more stringent than federal law because there are no federal laws on student vaccination; however, these regulations are not more stringent than current state/local immunization laws regarding the use of an immunization requirement for post-secondary schools. These regulations are necessary to close a loophole in the current law to ensure that all Nevada state school institutions follow the same guidelines as post-secondary school institutions. Additionally, these regulations are necessary to add a requirement for COVID-19 vaccination to protect students of Nevada institutions of higher education from COVID-19.

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The reason for the conclusion of the agency to mandate COVID-19 vaccinations for all Nevada institutions of higher education, as well as mandate of both COVID-19 vaccination and other routine vaccinations for state and community colleges (e.g. tetanus, diphtheria, measles, mumps, rubella) is to protect the public health of student populations.

Overall, the proposed regulations will have an impact on Nevada postsecondary educational institutions.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Shannon Bennett at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89701
Shannon Bennett
Phone: (775) 350-5261
Email: iz@health.nv.gov

Certification by Person Responsible for the Agency

I, Lisa Sherych, Administrator of the Division of Public and Behavioral Health certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Signature  Date: 12/10/2021

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R069-21

December 1, 2021

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

AUTHORITY: §§ 1-5, NRS 439.200 and 441A.120.

A REGULATION relating to immunizations; revising requirements governing the immunization of students at postsecondary educational institutions; prohibiting requests for a variance from such requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational institutions. (NRS 441A.120) Existing regulations prohibit, with certain exceptions, a person from attending a university until he or she submits to the university proof of immunity to certain communicable diseases. (NAC 441A.755) **Section 4** of this regulation makes this requirement applicable to state colleges and community colleges on July 1, 2024. **Section 3** of this regulation prohibits a person from attending a postsecondary educational institution until he or she submits proof of immunity to COVID-19, effective upon the submission of this regulation to the Secretary of State.

Existing regulations require the Division of Public and Behavioral Health of the Department of Health and Human Services to establish the immunization schedule required for the admission of a student. (NAC 441A.755) **Section 3** removes that requirement. Instead, **section 2** of this regulation adopts by reference certain publications of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, and **section 3** requires the proof of immunity submitted by a student to demonstrate that the student has acquired immunity in accordance with those publications.

Existing regulations exempt any student who is enrolled in a program of distance education and who does not attend a class on campus from immunization requirements. (NAC 441A.755) **Section 3** requires a student who does not attend class on campus but attends a club, sport or other extracurricular activity on campus to demonstrate the required immunity.

Existing regulations authorize certain persons to apply for a variance from a regulation of the State Board of Health. (NAC 439.200-439.280) **Sections 1 and 3** of this regulation provide that any person who is required to submit proof of immunity to certain communicable diseases to attend a postsecondary educational institution is ineligible to request a variance from a regulation of the Board relating to that requirement.

Section 1. NAC 439.200 is hereby amended to read as follows:

439.200 1. ~~{Any}~~ *Except as otherwise provided in NAC 441A.755, any* person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgment of a substantial property right may apply for a variance from the regulation.

2. An application for such a variance must be made to the State Board of Health unless the regulation is enforced by a district board of health, in which case the application must be made to the appropriate district board.

Sec. 2. NAC 441A.200 is hereby amended to read as follows:

441A.200 1. Except as otherwise provided in subsection 2, the following recommendations, guidelines and publications are adopted by reference:

(a) The standard precautions to prevent transmission of disease by contact with blood or other body fluids as recommended by the Centers for Disease Control and Prevention in “Perspectives in Disease Prevention and Health Promotion Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings,” *Morbidity and Mortality Weekly Report* [37(24):377-388, June 24, 1988], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(b) The Centers for Disease Control and Prevention’s *2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, published by the United States Department of Health and Human Services and available at no cost on the Internet at ~~<https://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines.pdf;>~~

<http://www.cdc.gov/infectioncontrol/pdf/guidelines/isolation-guidelines-H.pdf>, or, if that Internet website ceases to exist, from the Division.

(c) The recommended guidelines for the investigation, prevention, suppression and control of communicable disease set forth by the Centers for Disease Control and Prevention in:

(1) “General Recommendations on Immunization: Recommendations of the Advisory Committee on Immunization Practices,” *Morbidity and Mortality Weekly Report* [55(RR15):1-48, December 1, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division; and

(2) *Manual for the Surveillance of Vaccine-Preventable Diseases*, 4th edition, published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/vaccines/pubs/surv-manual/index.html>, or, if that Internet website ceases to exist, from the Division.

(d) The recommended guidelines for the investigation, prevention, suppression and control of communicable diseases contained in *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association and available for the price of ~~38.50~~ \$49 for members and ~~55.00~~ \$70 for nonmembers from the American Public Health Association, 800 I Street, N.W., Washington, D.C. 20001-3710, or at the Internet address <http://www.apha.org>.

(e) The recommended guidelines for the investigation, prevention, suppression and control of communicable diseases contained in *Red Book: 2015 Report of the Committee on Infectious Diseases*, 30th edition, published by the American Academy of Pediatrics and available for the price of ~~75.00~~ \$119.95 for members and ~~149.95~~ \$149.95 for nonmembers from the

American Academy of Pediatrics, ~~{141 Northwest Point}~~ **345 Park** Boulevard, ~~{Elk Grove Village,}~~ **Hasca**, Illinois ~~{60007,}~~ **60143**, or at the Internet address ~~{http://www.aap.org,}~~ <https://shop.aap.org>.

(f) The recommendations for the testing, treatment, prevention, suppression and control of chancroid, *Chlamydia trachomatis*, gonococcal infection, granuloma inguinale, lymphogranuloma venereum and infectious syphilis as are specified in “Sexually Transmitted Diseases Treatment Guidelines, 2006,” *Morbidity and Mortality Weekly Report* [55(RR11):1-94, August 4, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(g) The recommendations for the counseling of and effective treatment for a person having active tuberculosis or tuberculosis infection as set forth in:

(1) “Controlling Tuberculosis in the United States: Recommendations from the American Thoracic Society, CDC, and the Infectious Diseases Society of America,” *Morbidity and Mortality Weekly Report* [54(RR12):1-81, November 4, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(2) “Treatment of Tuberculosis,” *Morbidity and Mortality Weekly Report* [52(RR11):1-77, June 20, 2003], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(3) “Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection,” *Morbidity and Mortality Weekly Report* [49(RR06):1-54, June 9, 2000], published by the United

States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division;

(4) The recommendations of the Centers for Disease Control and Prevention for preventing and controlling tuberculosis in correctional and detention facilities set forth in “Prevention and Control of Tuberculosis in Correctional and Detention Facilities: Recommendations from CDC,” *Morbidity and Mortality Weekly Report* [55(RR9):1-44, July 7, 2006], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division; and

(5) “Guidelines for the Investigation of Contacts of Persons with Infectious Tuberculosis: Recommendations from the National Tuberculosis Controllers Association and CDC,” *Morbidity and Mortality Weekly Report* [54(RR15):1-37, December 16, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(h) The recommendations of the Centers for Disease Control and Prevention for preventing the transmission of tuberculosis in facilities providing health care set forth in “Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005,” *Morbidity and Mortality Weekly Report* [54(RR17):1-141, December 30, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(i) “Case Definitions for Infectious Conditions Under Public Health Surveillance,” *Morbidity and Mortality Weekly Report* [46(RR10):1-55, May 2, 1997], published by the United States

Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(j) “Recommended Antimicrobial Agents for Treatment and Postexposure Prophylaxis of Pertussis: 2005 CDC Guidelines,” *Morbidity and Mortality Weekly Report* [54(RR14):1-16, December 9, 2005], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(k) “Updated Recommendations for Isolation of Persons with Mumps,” *Morbidity and Mortality Weekly Report* [57(40):1103-1105, October 10, 2008], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(l) “Recommendations for Partner Services Programs for HIV Infection, Syphilis, Gonorrhea, and Chlamydial Infection,” *Morbidity and Mortality Weekly Report* [57(RR09):1-83, November 7, 2008], published by the United States Department of Health and Human Services and available at no cost on the Internet at <http://www.cdc.gov/mmwr>, or, if that Internet website ceases to exist, from the Division.

(m) “Facility Guidance for Control of Carbapenem-resistant Enterobacteriaceae (CRE),” published by the United States Department of Health and Human Services and available at no cost from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services on the Internet at <https://www.cdc.gov/hai/organisms/cre/cre-toolkit/index.html>, or, if that Internet website ceases to exist, from the Division.

(n) “Interim guidance for a Health Response to Contain Novel or Targeted Multidrug-resistant Organisms (MRDOs),” published by the United States Department of Health and

Human Services and available at no cost from the Centers for Disease Control and Prevention of the United States Department of Health and Human Services on the Internet at

~~<https://www.cdc.gov/hai/outbreaks/docs/Health-Response-Contain-MDRO.pdf>~~,

<https://www.cdc.gov/hai/pdfs/containment/Health-Response-Contain-MDRO-H.pdf>, or, if that

Internet website ceases to exist, from the Division.

(o) The guidelines for the prevention, postexposure management and control of rabies as specified in the “Compendium of Animal Rabies Prevention and Control, 2016,” published by the National Association of State Public Health Veterinarians and available at no cost on the Internet at <http://nasphv.org/documentsCompendiaRabies.html>, or, if that Internet website ceases to exist, from the Division.

(p) “Carbapenemase Producing Carbapenem-Resistant Enterobacteriaceae (CP-CRE) 2018 Case Definition,” published by the United States Department of Health and Human Services and available at no cost on the Internet ~~at <https://www.cdc.gov/nndss/conditions/carbapenemase-producing-carbapenem-resistant-enterobacteriaceae/case-definition/2018/>~~,

<https://ndc.services/cdc.gov/case-definitions/carbapenemase-producing-carbapenem-resistant-enterobacteriaceae-2018/>, or, if that Internet website ceases to exist, from the Division.

(q) The immunization schedules published by the United States Department of Health and Human Services and available at no cost on the Internet at <https://www.cdc.gov/vaccines/schedules/hcp/index.html>, or, if that Internet website ceases to exist, from the Division.

(r) “Epidemiology and Prevention of Vaccine-Preventable Diseases,” 14th Edition, published by the United States Department of Health and Human Services and available at no

cost on the Internet at <https://www.cdc.gov/vaccines/pubs/pinkbook/index.html>, or, if that Internet website ceases to exist, from the Division.

2. Except as otherwise provided in this subsection, the most current version of a recommendation, guideline or publication adopted by reference pursuant to subsection 1 which is published will be deemed to be adopted by reference. If both the state and local health authorities determine that an update of or revision to a recommendation, guideline or publication described in subsection 1 is not appropriate for use in the State of Nevada, the Chief Medical Officer will present this determination to the Board and the update or revision, as applicable, will not be adopted. If the agency or other entity that publishes a recommendation, guideline or publication described in subsection 1 ceases to publish the recommendation, guideline or publication:

(a) The last version of the recommendation, guideline or publication that was published before the agency or entity ceased to publish the recommendation, guideline or publication shall be deemed to be the current version; and

(b) The recommendation, guideline or publication will be made available on an Internet website maintained by the Division.

NEW FIRST
PARALLEL
SECTION

Sec. 3. NAC 441A.755 is hereby amended to read as follows:

441A.755 1. Except as otherwise provided in subsection ~~10~~ **11** or unless excused because of religious belief or medical condition, a person shall not attend ~~at~~ :

(a) *A* university until he or she submits to the university proof *that meets the requirements of subsection 3* of immunity to tetanus, diphtheria, measles, mumps, rubella and any other disease specified by the State Board of Health. ~~{The Division shall establish the immunization schedule required for admission of the student.}~~

(b) A postsecondary educational institution until he or she submits to the postsecondary educational institution proof that meets the requirements of subsection 3 of immunity to COVID-19.

2. Except as otherwise provided in subsection ~~10~~ 11 or unless excused because of religious belief or medical condition, a person who:

(a) Is less than 23 years of age; and

(b) Is enrolled as a freshman,

↪ shall not attend a university until he or she submits to the university proof *that meets the requirements of subsection 3* of immunity to *Neisseria meningitidis*. ~~{The Division shall establish the immunization schedule required for admission of the student.}~~

3. *The proof of immunity required by subsection 1 or 2 must demonstrate that the student has:*

(a) Been immunized in accordance with the applicable immunization schedule adopted by reference in paragraph (q) of subsection 1 of NAC 441A.200; or

(b) Otherwise acquired the required immunity in a manner described in the publication adopted by reference in paragraph (r) of subsection 1 of NAC 441A.200.

4. A student may enroll in ~~{the university}~~ *a postsecondary educational institution* conditionally if the student, or if the student is a minor, the parent or legal guardian of the student, submits a record of immunization stating that the student is in the process of obtaining the required immunizations, and that record shows that the student has made satisfactory progress toward obtaining those immunizations.

~~{4. The university}~~ 5. *A postsecondary educational institution* shall retain the proof of immunity on a computerized record or on a form provided by the Division.

~~{5.—The university}~~ 6. *A postsecondary educational institution* shall not refuse to enroll a student because he or she has not been immunized if the student, or if the student is a minor, the parent or legal guardian of the student, has submitted to the ~~{university}~~ *postsecondary educational institution* a written statement indicating that his or her religious belief prohibits immunizations. The ~~{university}~~ *postsecondary educational institution* shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the ~~{university:}~~ *postsecondary educational institution:*

(a) Annually, according to the registration schedule of the ~~{university}~~ *postsecondary educational institution* for the duration of the enrollment of the student at the ~~{university:}~~ *postsecondary educational institution;* and

(b) On a form provided by the Division.

~~{6.}~~ 7. If the medical condition of a student does not permit him or her to be immunized to the extent required, the student, or if the student is a minor, the parent or legal guardian of the student, must submit to the ~~{university}~~ *postsecondary educational institution* a statement of that fact written by a licensed physician. The ~~{university}~~ *postsecondary educational institution* shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the ~~{university}~~ *postsecondary educational institution* on a form provided by the Division.

~~{7.}~~ 8. If additional requirements of immunity are imposed by law after a student has been enrolled in ~~{the university,}~~ *a postsecondary educational institution*, the student, or if the student is a minor, the parent or legal guardian of the student, shall submit an additional proof of immunity to the ~~{university}~~ *postsecondary educational institution* stating that the student has met the new requirements of immunity.

~~{8.}~~ 9. If the health authority determines that, at ~~{the university,}~~ *a postsecondary educational institution*, there is a case having a communicable disease against which immunity is required for admission to the ~~{university,}~~ *postsecondary educational institution*, and a student who has not submitted proof of immunity to that disease is attending that ~~{university,}~~ *postsecondary educational institution*, the president of the ~~{university}~~ *postsecondary educational institution* shall require that:

(a) The student be immunized; or

(b) The student be excluded from the ~~{university}~~ *postsecondary educational institution* until allowed to return by the health authority.

~~{9.}~~ 10. A student shall not attend a ~~{university}~~ *postsecondary educational institution* from which he or she is excluded until allowed to return by the health authority. The parent or legal guardian of a student, if the student is a minor, shall not allow the student to attend a ~~{university}~~ *postsecondary educational institution* from which he or she is excluded until allowed to return by the health authority.

~~{10.}~~ 11. Any student who is enrolled in a program of distance education and who does not attend a class *or participate in a club, sport or extracurricular activity* on campus is exempt from the requirements of this section.

~~{11.}~~ 12. *Any person who is subject to the provisions of this section is not eligible to request a variance pursuant to NAC 439.200 to 439.280, inclusive.*

13. As used in this section:

(a) *“Community college” means any community college within the Nevada System of Higher Education.*

(b) “Postsecondary educational institution” has the meaning ascribed to it in NRS 394.099 ~~†~~
~~—(b)† and also includes a university, state college or community college.~~

(c) “State college” means any state college within the Nevada System of Higher Education.

(d) “University” means any university within the Nevada System of Higher Education or any private postsecondary educational institution.

NEW
SECOND
PARALLEL
SECTION

Sec. 4. NAC 441A.755 is hereby amended to read as follows:

441A.755 1. Except as otherwise provided in subsection 11 or unless excused because of religious belief or medical condition, a person shall not attend ~~†~~

~~—(a) A university† a postsecondary educational institution~~ until he or she submits to the university proof that meets the requirements of subsection 3 of immunity to **COVID-19**, tetanus, diphtheria, measles, mumps, rubella and any other disease specified by the State Board of Health.

~~{(b) A postsecondary educational institution until he or she submits to the postsecondary educational institution proof that meets the requirements of subsection 3 of immunity to COVID-19.†~~

2. Except as otherwise provided in subsection 11 or unless excused because of religious belief or medical condition, a person who:

(a) Is less than 23 years of age; and

(b) Is enrolled as a freshman,

↪ shall not attend a ~~{university}†~~ **postsecondary educational institution** until he or she submits to the ~~{university}†~~ **postsecondary educational institution** proof that meets the requirements of subsection 3 of immunity to *Neisseria meningitidis*.

3. The proof of immunity required by subsection 1 or 2 must demonstrate that the student has:

(a) Been immunized in accordance with the applicable immunization schedule adopted by reference in paragraph (q) of subsection 1 of NAC 441A.200; or

(b) Otherwise acquired the required immunity in a manner described in the publication adopted by reference in paragraph (r) of subsection 1 of NAC 441A.200.

4. A student may enroll in a postsecondary educational institution conditionally if the student, or if the student is a minor, the parent or legal guardian of the student, submits a record of immunization stating that the student is in the process of obtaining the required immunizations, and that record shows that the student has made satisfactory progress toward obtaining those immunizations.

5. A postsecondary educational institution shall retain the proof of immunity on a computerized record or on a form provided by the Division.

6. A postsecondary educational institution shall not refuse to enroll a student because he or she has not been immunized if the student, or if the student is a minor, the parent or legal guardian of the student, has submitted to the postsecondary educational institution a written statement indicating that his or her religious belief prohibits immunizations. The postsecondary educational institution shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the postsecondary educational institution:

(a) Annually, according to the registration schedule of the postsecondary educational institution for the duration of the enrollment of the student at the postsecondary educational institution; and

(b) On a form provided by the Division.

7. If the medical condition of a student does not permit him or her to be immunized to the extent required, the student, or if the student is a minor, the parent or legal guardian of the student, must submit to the postsecondary educational institution a statement of that fact written by a licensed physician. The postsecondary educational institution shall keep the statement on file. A statement submitted pursuant to this subsection must be submitted to the postsecondary educational institution on a form provided by the Division.

8. If additional requirements of immunity are imposed by law after a student has been enrolled in a postsecondary educational institution, the student, or if the student is a minor, the parent or legal guardian of the student, shall submit an additional proof of immunity to the postsecondary educational institution stating that the student has met the new requirements of immunity.

9. If the health authority determines that, at a postsecondary educational institution, there is a case having a communicable disease against which immunity is required for admission to the postsecondary educational institution, and a student who has not submitted proof of immunity to that disease is attending that postsecondary educational institution, the president of the postsecondary educational institution shall require that:

(a) The student be immunized; or

(b) The student be excluded from the postsecondary educational institution until allowed to return by the health authority.

10. A student shall not attend a postsecondary educational institution from which he or she is excluded until allowed to return by the health authority. The parent or legal guardian of a student, if the student is a minor, shall not allow the student to attend a postsecondary

educational institution from which he or she is excluded until allowed to return by the health authority.

11. Any student who is enrolled in a program of distance education and who does not attend a class or participate in a club, sport or extracurricular activity on campus is exempt from the requirements of this section.

12. Any person who is subject to the provisions of this section is not eligible to request a variance pursuant to NAC 439.200 to 439.280, inclusive.

13. As used in this section:

(a) “Community college” means any community college within the Nevada System of Higher Education.

(b) “Postsecondary educational institution” has the meaning ascribed to it in NRS 394.099 and also includes a university, state college or community college.

(c) “State college” means any state college within the Nevada System of Higher Education.

(d) “University” means any university within the Nevada System of Higher Education or any private postsecondary educational institution.

Sec. 5. 1. This section and sections 1, 2 and 3 of this regulation become effective on the date on which this regulation is filed with the Secretary of State.

2. Section 4 of this regulation becomes effective on July 1, 2024.