

**STATE OF NEVADA**  
**EMPLOYMENT SECURITY DIVISION**  
**COMMISSION ON POSTSECONDARY EDUCATION**

*This meeting, conducted by the Commission on Postsecondary Education Chapter 394 of Nevada Administrative Code pursuant to Nevada Revised Statute NRS 394.383.*

**NEVADA COMMISSION ON POSTSECONDARY EDUCATION**

Wednesday, September 5, 2018; 9:13 A.M.

<b>Place of Meeting:</b>	<b><u>Live Meeting:</u></b>	<b><u>Video Conference to:</u></b>
	DETR – SAO Auditorium	DETR – Stan Jones Building, Conf. Rm. A-C
	500 East Third Street	2800 E. St. Louis Avenue
	Carson City, Nevada 89713	Las Vegas, Nevada 89104

**Department of Employment, Training and Rehabilitation (DETR) Staff**

**Present in Carson City**

Christina Guzman, ESD Management Analyst IV  
Mariruth Johnson, ESD Management Analyst II

**Department of Employment, Training and Rehabilitation (DETR) Staff**

**Present in Las Vegas**

Kelly D. Wuest, Commission on Postsecondary Education (CPE) Administrator  
Maricris Wu, CPE Education Specialist  
Susan Beckett, CPE Administrative Assistant III

**Members of the Public, Media and Other Agencies**

**Present in Carson City**

None

**Members of the Public, Media and Other Agencies**

**Present in Las Vegas**

Robert Whitney, Nevada Attorney General Office Deputy Attorney General  
Maggie Adams, Nevada State Board of Massage Therapy Southern Nevada Operations Manager  
Tom Bezek, Asher College  
Weilain Chang, Elbe Institute  
Irvin Chung, Elbe Institute  
Cesar A. Garcia, HVAC Air Conditioning Academy  
Leticia C. Garcia, HVAC Air Conditioning Academy  
Ryan Heroy, BDG Academy  
Lisa Nordman, Aviation Institute Maintenance

David Salmon, Esq., Elbe Institute  
Don Ramos, Digital Music Alliance  
Ellesa Reynada, BDG Academy  
Grace Yun  
Jinjun Wang, Elbe Institute

**Members of the Commission on Postsecondary Education  
Present in Carson City**

Larry Nathan (Nate) Clark, Vice Chair  
Grant Nielson

**Member of the Commission on Postsecondary Education  
Present in Las Vegas**

Rene Cantu  
Sharon Frederick  
Jill Hersha

**Member of the Commission on Postsecondary Education  
Not Present**

BJ North, Chairperson  
Jon Ponder

**STATE OF NEVADA**  
**EMPLOYMENT SECURITY DIVISION**  
**COMMISSION ON POSTSECONDARY EDUCATION**

September 5, 2018 – 9:13 A.M.

**Call to Order**

The meeting was held at the Department of Employment Training and Rehabilitation Conference Meeting Rooms, in Las Vegas, Nevada and the SAO Auditorium, Carson City (via video conferencing). The meeting was called to order by Vice Chair Commissioner Clark at approximately 9:13 AM.

**Public Comments**

We will now open it up to Public Comment. We have no public comment in the north reported by Vice-Chair Commissioner Clark. Administrator Wuest reported no public comment in the south.

**Open Meeting Compliance**

We are in compliance with the open meeting law confirmed by Administrator, Ms. Wuest.

**Confirmation of Posting**

Susan Beckett introduced herself as the Administrative Assistant for the Commission on Postsecondary Education and stated we do have confirmations of posting and are in compliance.

**Written Comments**

Nate Clark, Vice-Chair Commissioner asked whether written comments were received. Administrator Wuest, we do not have written comments to review.

**Roll Call**

- Rene Cantu-Present
- Vice Chair Nathan Clark-Present
- Sharon Frederick-Present
- Jill Hersha-Present
- Grant Nielson-Present
- BJ North-Excused
- Jon Ponder-Excused, undetermined.

Quorum confirmed by Administrator Wuest.

**Adoption of Agenda:**

Motion: Commissioner Cantu - Moves to adopt the agenda.

Second: Commissioner Frederick, and added the option for a flexible agenda.

Vice-Chair Clark asked if we need to modify our original motion.

Motion: Commissioner Cantu - Motion to adopt the agenda with flexibility.  
Second: Commissioner Frederick  
Discussion: None.  
Results: Unanimous, agenda is adopted.

### **Approval of Minutes May 2, 2018**

Motion: Commissioner Frederick – Motion to approve the minutes from May 2, 2018 meeting.  
Second: Commissioner Cantu.  
Discussion: None.  
Results: Unanimous, motion passes.

### **Approval of Minutes August 1, 2018**

Motion: Commissioner Hersha – Motion to approve the minutes from August 1, 2018 meeting.  
Second: Commissioner Frederick  
Discussion: None.  
Results: Unanimous, motion passes.

### **Adoption of 2019 Meeting Dates**

Motion: Commissioner Cantu - Move to adopt the 2019 Meeting Dates.  
Second: Commissioner Hersha.  
Discussion: None.  
Results: Unanimous, adoption of 2019 Meeting Dates, is adopted.

### **Administrators Report**

Administrator Kelly Wuest gave the Administrators report:

#### **1. Budget – 2020/2021**

CPE has monthly scheduled meeting with DETR Financial Management to review the current budget, complete the year end close out and look towards the future needs of the agency. DETR FM have requested enhancements to the budget to address staffing and computer software needs. CPE has requested the addition of a compliance audit investigator. This position would assist in performing audits with currently licensed and provisional schools and would investigate student complaints, advertising violations and illegally operating schools. The software request would fund an IT solution to maintain data located in antiquated systems and ACCESS enabling the agency process payments electronically payments and access school documents electronically.

#### **2. Website and email**

The CPE website is live at [www.cpe.nv.gov](http://www.cpe.nv.gov). DETR has also moved CPE staff to new emails ending in detr.nv.gov.

**3. Accrediting Council for Independent Colleges and Schools (ACICS) Update -**

At the last commission meeting, I reported that only two school are still impacted by the ACICS issue. In February, WASC approval a proposal for the Art Institute of Las Vegas along with several other Art Institute campuses to be integrated into Argosy University structure. As a substantive change, this change requires the U.S. Department of Education approval which has not been received and the Art Institute of Las Vegas remains accredited by ACICS. In late June, Dream Center Educational Holding announced the closure of 18 locations including the Art Institute of Phoenix which is the main campus connect to the AI Las Vegas branch campus. The school has been notified of the need to establish the Las Vegas campus as a main campus through ACICS.

**2. Massage Required Curriculum Changes/Establishment of Reflexology Standards**

CPE is working with the Nevada Board of Massage Therapy to ensure the curriculum for each program meets the requirements for graduates to apply for licensure. The accredited programs have all gone through curriculum approval and all meet standard.

CPE licenses four unaccredited massage programs statewide and three unaccredited schools offer courses in reflexology. NSMTB has reviewed the curriculum for three of the four massage programs and found the curriculum in its current state does not meet standards. The review has provided sample daily lesson plans and suggestions for revision. The same process will occur for the three reflexology programs. The date for compliance has been extended to January 2019.

**3. CPE participated in the DETR Summer Youth Internship Program**

This year, CPE received two interns that started in mid-June. They have been working on scanning the Morrison University and Anthem College transcripts into separate files, performing data entry work and assisting with the Commission packet. Participating in this program has been pivotal is helping the agency process the backlog of transcripts. All of the CPE staff would like to thank the interns for their assistance.

**4. CPE Quarterly Activities – April - June 2018**

<b>CPE Activity</b>	<b>Applications Processed</b>	<b>CPE Activity</b>	<b>Applications Processed</b>
License Renewals	13	Agent Permits	18
Experiential License/Agent Schools Applications	4	Backgrounds Processed	312
SARA Notifications	6	VA Compliance Visits/Other Visits	3
Distance Education Exemptions	7	VA Program Approvals	426
License Evaluations	6		

**5. Quarterly Report -** With 8 schools unreported, total enrollment for the April 1, 2018 quarter stands at 7,292 students. An updated count will be provided at the meeting.

April - June 2018	April - June 2017	April - June 2016	April - June 2015	April - June 2014
7,292	5,814	5,340	6,614	3,778

**6. CPE Student Complaints:**

April - June 2018

School Name	Date Filed	Issues/Allegations	Findings	Status
PCI Dealer School	6/14/18	Inadequate Instruction; marketing practices.	Audit scheduled.	Open

January – March 2018

School Name	Date Filed	Issues/Allegations	Findings	Status
Brightwood Institute	3/26/18	Has made several requests for transcripts to continue her education – only receiving a partial transcript	Student attended school during early 90's when it was Heritage College. Transcripts were transferred to Parchment services.  Parchment has determined that after an expansive search, the file is not present in their documents. Student received notice that transcript was not found.	Closed

**Changes to NRS impacting Massage and Reflexology Programs**

Administrator Wuest introduced Maggie Adams, State of Nevada Board of Massage Therapy. Maggie Adams announced she is speaking on behalf of Sandy Anderson, Executive Director who was in a board meeting this morning. Ms. Adams spoke on behalf of the new updated requirements. We now have 550 hours for massage therapy, 200 hours for reflexology and 730 hours for structural integration practitioner.

Commissioner Cantu asked, if someone in Nevada who meets these requirements would they be able to practice in all fifty states? Ms. Adams responded, great question, no we each have our own requirements and each state is responsible for licensing and reviewing the credit hours. We have several schools from outside Nevada that we accept the requirements from and also other states have this process, as well.

Commissioner Frederick asked, so a student moves Nevada from another state how much time are they given to resolve the situation of their lack of school. Ms. Adams responded, there is no time limit for the lack of requirements, they do not receive their license until they have the required hours. If someone is not listed on our list of accepted schools they can request their school be placed on the list of outside accepted schools and a review of the curriculum will be conducted by our agency. Commissioner Frederick asked, if the Board of Massage Therapists do any knowledge based testing or hands on testing. Ms. Adams stated, we do not do any testing.

Commissioner Cantu asked, what are the needs or are there any policy ideas, recommendations to help the massage schools here in Nevada for quality and aspects of that? Ms. Adams replied, one curriculum review is important across the board. I also think that we need to go in and evaluate the classroom, what is going on in the classroom. I could put anything down on the paper. However, is this being conveyed to the students in an effective manner.

Administrator Wuest asked, are there any questions up north? No questions.

### **Applications for Full Term License**

#### **BDG Academy**

Testified: Ryan Heroy, Chief Operating Officer, and Ellesa Renada, Academic Director, spoke on behalf of BDG Academy. They gave a brief overview of the school with the future goals of expanding to accreditation.

Discussion: Commissioner Cantu stated, your application and your placements are very nice. This may be a Maricris question, I'm not sure. On the forms here it asks if placement assistance was documented and it was checked no. So, is placement taking place and it not being documented? Maricris Wu, asked which form are you looking at? Commissioner Cantu stated I am on the Approval Criteria Checklist for the Workforce Participation Form. This is Maricris Wu for the record, I apologize for the oversight on this particular student on the form. This was an oversight on my behalf, all placements were tracked. Administrator Wuest stated, I want to clarify this person had not graduated at that time so it should have been marked N/A because they had not completed the training. Commissioner Hersha asked, do you have results from the externships for the ortho program? Mr. Heroy responded, we have a traveling ortho team that goes around to all our offices. We did all those externships. Those students, actually, all gained employment after the program. Commissioner Hersha asked, I noticed that you offer scholarship is there a fee if they move out of state, how do you handle this and how are you marketing this? Mr. Heroy responded, the two scholarships that we offered at this time were to BDG employees, we are in the business of helping people and we only offer one scholarship per class and we currently only offer it to BDG employees. Ellesa Renada furthered, regarding the program marketing, we do market to high school students and we have brochures and social media. We are adverting on the radio. Mr. Heroy also responding stating radio, social media, Instagram in the dental targeted market as well. Commissioner Frederick asked, as a follow-up to the scholarship, so is that a full tuition for dental assisting and ortho assisting? This is Ryan Heroy, yes, we would like to take it externally maybe to a high school

student. Commissioner Hersha, discussed workforce connections and there is available funding for adults and it could be a resource. Mr. Heroy thanked Commissioner Hersha and stated he wanted to focus on accreditation.

Motion: Commissioner Frederick – I would like to make a motion for full term licensure be granted for BDG Academy.  
Second: Commissioner Hersha.  
Discussion: None.  
Results: Unanimous.

#### Elbe Institute

Motion: Commissioner Frederick – I would like to make a motion this item be moved to after item six, Music Alliance Academy to allow additional time for discussion  
Second: Commissioner Cantu.  
Discussion: None.  
Results: Unanimous, motion carries.

### **Applications for Initial Provisional Licensure**

#### HVAC Air Conditioning Academy

Testified: Caesar Garcia approached and introduced himself. Commissioner Clark requested Mr. Garcia give a background and training. Mr. Garcia stated he has been a licensed contractor for the past 25 years. The biggest issue Mr. Garcia has been facing with his air conditioning business has been lack of technicians and then the quality of their work. Mr. Garcia furthered, because of this need he decided to open a school.

Discussion: Commissioner Cantu asked, being there is a shortage do you have contacts for commercial service? Mr. Garcia replied, yes and my technicians will be able to work on anything commercial or residential. Commissioner Cantu asked, do you have a textbook or is it on the job training? Mr. Garcia responded, yes, we do have a textbook. Commissioner Clark inquired, I see that you have \$50.00 allocated for the program book is that correct? Mr. Garcia replied, yes. Commissioner Clark furthered, the cost of the textbook seems relatively low compared to other schools have you already chosen the books or is this just an estimate? Mr. Garcia responded, I have already chosen the books. Commissioner Frederick asked, regarding the equipment that is required do you supply that? Mr. Garcia replied, yes, I provide the basic tools required. Commissioner Frederick stated, I want to thank you. As a person who purchased a new house and the air conditioning went out I can fully appreciate your interest. Commissioner Hersha questioned, about the cost of the course are you willing to work with the students the cost of the program is \$4,500 and the age of the students. Mr. Garcia responded, they can pay over the five months. Commissioner Cantu stated, I would recommend you get in contact with Workforce Connection and get on the ETPL list, the ETPL is the eligible training provider list and what that does is it provides federal funds to your students who will be able to apply that to pay the tuition, I know that money exists,



just a thought. Mr. Garcia replied, thank you. Commissioner Hersha asked, what is your plan for marketing how do you plan to get your students? Mr. Garcia stated, the students come I already have many interested and my school is bilingual. Commissioner Hersha asked, have you taught before? Mr. Garcia replied, yes, I have been teaching for years. Commissioner Clark asked, when a student graduates what are your placement options? Mr. Garcia replied, there are so many openings they don't really need any assistance. I will help them because I know people in town. Commissioner Clark asked, is this classroom and on the job training or a mixture of both? Mr. Garcia replied, yes, it is both. I will be taking my guys to the field to change out compressors and other items.

Motion: Commissioner Cantu – I would like to move that a twelve-month provisional license be granted to HVAC Air Conditioning Academy, to offer the Heating, Ventilation & Air Conditioning program, contingent upon receipt of surety in the amount of \$35,000.00, and staffing information.

Second: Commissioner Frederick.

Discussion: None.

Results: Unanimous, motion carries.

#### Aviation Institute of Maintenance

Testified: Lisa Nordman, Assistant Director with the Las Vegas Campus. The Aviation Institute of Maintenance is one of a dozen schools across the nation. We have been known for our A & P ratings, we are the only A & P aircraft school in Nevada with FAA approval. We have looked at our program and want to add the Maintenance Technician program which steps outside the FAA approval and would include the Commission on Postsecondary Education approval.

Discussion: Commissioner Clark stated, we have a packet of information so we have a pretty good understanding of what is before us. Commissioner Cantu asked, with the length of the program of 1444 hours/55 credits is it a two-year associates degree or certificate? Ms. Nordman replied, yes, it is a certificate program. Commissioner Cantu, if I may continue, with regard to the \$28,000 plus in tuition, do you offer financial aid? Ms. Nordman responded, yes. We offer Title IV funding as well as VA educational benefits. Commissioner Cantu inquired, how long does it take to complete the training? Ms. Nordman replied, it will take about 65 weeks or about fifteen months. Commissioner Cantu asked, do you offer any scholarships? Ms. Nordman responded, we offer scholarships, but through our corporate office. So, the answer is yes. The students would apply and then they would be assessed as eligible for scholarship money. Commissioner Hersha asked, where are you going to get your students, as well as, right along with that how are you going to market the program? Ms. Nordman responded, we are launching this as a new program, we will be advertising and it is orchestrated through our corporate office. We will be advertising the maintenance tech program. We will be also, looking at our current students so they will be able to have options. Commissioner Clark inquired, historically with the other program you offer, have you found graduates from that program that chose not to go work in the aircraft field and took on jobs with

facilities and so forth? Ms. Nordman responded, the answer is yes, it is a very low-cost testing process that comes with the A & P program.

- Motion: Commission Frederick – I make a motion that a twelve-month provision license be granted to Aviation Institute of Maintenance, to offer the Maintenance Technician program.
- Second: Commissioner Hersha.
- Discussion: None.
- Results: Unanimous, motion carries.

### **Applications for Add a Program**

#### *Asher College*

Testified: Tom Bezek, the Corporate Finance Director, gave information about Asher College. We have been in business since 1999, started out in California. We have added locations, one in Nevada, and one in Austin, Texas. We currently offer eight-degree programs, thirteen certificate programs in the IT Business and Health Services fields. We are looking to add a Hospitality Program here in Nevada. This is Associates of Applied Science program. This program just makes sense. We are an accredited school by ACCET we offer financial aid, VA benefits, as well as, vocational rehabilitation counselors as well.

Discussion: Commissioner Cantu asked, questions about the audit a section near the end, page 23, regarding the loans from stock holders, corporation and payback and the related party transactions, I know you had a clean audit. Mr. Bezek replied, I will be honest with you, I am not one hundred percent privy to their workings of those that transpired.

- Motion: Commissioner Cantu – I move that Asher College be granted approval to offer the proposed Associate of Applied Science Degree in Hospitality Management contingent on facility approval and personnel information.
- Second: Commissioner Hersha.
- Discussion: None.
- Results: Unanimous, motion carries.

### **Correction in Surety Calculation**

#### *Music Alliance Academy*

- Testified: Don Ramos, Education Director
- Discussion: Administrator Wuest stated, we realized after the school Music Alliance Academy was in front of the commission that we had reversed a number in their surety calculation in their short-term program and the bigger one-year program was the flip of that number. This substantially changed their bond. This was an administrative mistake by staff. We requested the bond be adjusted to \$206,000.00, the original amount was \$338,000.00. Commissioner Clark stated,

being this is an administrative error, are there questions that the commissioners would like to ask in relation to this?

- Motion: Commissioner Hersha – I would like to make a motion to adjust the surety bond requirement of Music Alliance Academy to \$206,000.00 as a contingency of the provisional license.
- Second: Commissioner Frederick.
- Results: Unanimous, motion carries.

### **Applications for Full Term License**

#### **Elbe Institute**

Elbe Institute - Commissioner Clark, will Elbe Institute come forward. Please state your name and your affiliation with the school.

Testified: Good Morning commissioners, I am Jinjun Wang and I am the owner of Elbe Institute. Ms. Wang introduced school staff Weilain Chang, Irvin Chung and David Salmon, Attorney representing Elbe Institute. Our mission is to provide comprehensive massage and reflexology education for those who want to obtain a massage and reflexology license to become employed and productive members of society, we are accomplishing our mission by providing a quality education. Our pass rate for the national exam is 82%, which is above the national average. We have twenty-two of twenty-eight of our graduates are already placed. The remaining six are not licensed yet, some for personal reasons. A letter was read by Irvin Chung from a student and a business owner. Irvin Chang began reading, I was a student at Elbe Institute, I really like the school. I have been the owner of a massage spa for several years and I have over forty employees. The reason I chose Elbe Institute as my massage education is because were (inaudible) and have amazing hands on experience. The second is because the school provides both English and Chinese Education so it is easier for me to learn and understand the materials. After being in class for two weeks I liked the instructor and the studying environment. Therefore, after studying for six months I passed MLX national exam on the first time. Now I am applying for massage therapist license. Also, I want my friends to become a massage therapist to enroll in this school. Elbe Institute is a school for students to get their education. Thank you for you all to have given me a chance to recommend my school, signed (inaudible). Jinjun Wang continued, we have implemented a policy to address concerns and we responded to those concerns and we via a letter from our lawyer. We are here today to answer all questions. Commissioner Clark, thank you for that background.

Discussion: Commissioner Clark stated, the information we have here is a history of the school not complying mostly on the administration of the school. We are brought here today to for things which seem to be items on July are the same findings as in the past. Mr. Chung replied, the findings that were presented on July were brand new findings. Commissioner Cantu asked, about the findings in the last audit. Mr. Chung read the responses from the letter from Attorney, David Salmon and began reading the response one. Attorney David Salmon, interrupted, I prepared a letter

dated July 31, 2018. Commissioner Cantu requested a summary of the letter. Commissioner Clark stated, we are having a bit of difficulty with the audio and visually we can see a lot of papers being shuffled. Attorney Salmon asked, if Chair Clark had a copy of his letter dated July 31, 2018. Commissioner Clark responded if it is not in the packet then no. (Inaudible – papers shuffling). It is the last nine pages of the agenda item, this is Administrator Wuest. Commissioner Frederick stated, it is a fax letter July 31 at 2:05 P.M. and it is a total of seventeen pages if that helps. Commissioner Clark announced, I have located it. It looks like it starts on page 143 of the PDF that was sent out. Mr. Chung began, the first item in our response states our response regarding the 750 hours completion rate four students did not complete the required 750 hours and one student exceeded the number of program hours. Each of these students received a certificate indicating a completion of 750 hours. It states on page three of our catalog that in order for a student to graduate he/she must achieve an attendance rate of 75% at the completion of 750 hours for massage therapy and 250 hours for reflexology. This catalog was approved by the commission, so all these students in question have completed or exceeded the program hours. Number two the requires the students of the institution to maintain evidence that the student has met the requirements for the Wonderlic Exam, which we found that while we did include it in our catalog we deemed it was not necessary for the students to benefit in completing the program. We have a staff member who is interviews in English and is fluent in the language and if they cannot pass then well sorry. Number three requires the institution to obtain employment in related fields, with their locations of placement. The audit revealed that student placement assistance was not tracked for all students. We don't understand why this was an issue, this was raised in the last audit so we asked CPE for guidance and we received forms and we have been using tracking. Students who are not on the report who do not have a job do not have a license. So, they do get a job and they do get a license. For clarification the exhibits that are mentioned have been attached to the letter I prepared, this is David Salmon, Attorney. Mr. Chung continued, number four during the audit, Elbe Institute staff indicated that the textbooks were to remain on campus and students were provided xerox copies of the applicable material. Student catalog and enrollment agreements list complete tuition at \$4,700 to include textbook for the massage program. The audit revealed that textbooks were not provided to students rather copies of textbook curriculum are provided to the students. Student enrollment agreements revealed several students being charged either \$4,700 and \$4,200. We give the students the option to purchase the textbooks, this was in our catalog, if students choose to buy their own textbooks they will be charged \$4,200 instead of the \$4,700 if they choose to purchase from us. The audit revealed that copies of the textbooks that's not true, we do not provide students with their own copy. Many of our students take the bus to come to class. We recognize the physical toll carrying an 8-pound text book would exert on our students, thus we did provide textbooks from students who donated their old books. We have destroyed all the copies since this issue was raised. Number five, NAC requires that before the student performs the practice massage, the applicant obtains a written statement signed by the person acknowledging he or she knows the

message is to be performed by a student. This was pointed out in the January audit, there needs to be a written consent form and not just a verbal agreement of consent and the picture id. After the original audit, we have a new policy to comply with the requirement and we have had only ten students who have done their practicum since. we have updated and implemented the requirements. Instruction curriculum outlined for the Massage Curriculum of 750 hours does not align with the requirements of the NSBMT. The student practicum training records list students as having 7 hours on how to clean and sanitize; 7 hours of cleaning massage rooms; and 7 hours to prepare rooms. So, this is basically saying our curriculum not enough. The curriculum we used was approved by an individual hired by the commission. If the Massage Board finds the lack of practical experience inadequate we should be given the opportunity to correct this because again, the curriculum we use approved by a person hired by the Commission on Postsecondary Education. Again, we attached an exhibit showing we received a letter and paid this person. Number 7, in review the student enrollment agreements, two contacts were not signed by a school official. The contract is not valid until both parties sign. We realize this was an oversight and we have put in administrative review so this won't happen again. Number 8, One student file was missing documentation of payment. So, the student in question actually had not made payments at the time of the audit. She is a single mother and was working a night job to help pay for her education so we were very flexible with her payment plan. Number 9, in response to the unannounced visit at Avalon Day Spa we had to cancel class that day because our regular instructor called in sick and our substitute instructor was not able to attend due to previous commitment. We had hired another instructor and submitted the background to CPE three weeks prior on June 21<sup>st</sup>. However, we had not heard back from CPE so we could not have him instruct that day because he was not approved. Our only legal recourse was to cancel class. We are here to answer any other questions you might have.

This is Commissioner Clark, I would like to move back to the curriculum on whether on not it is approved by the Massage Therapy are we talking about the new NRS requirements, it is my understanding the school has until January 2019 to comply or is this an older NRS not being compliant to? Commissioner Clark, this is Administrator Wuest, we are referring to the initial curriculum that was approved and they had provided a letter that our evaluator had approved the curriculum, but when you look at there is two pages that I provided in your packet form 30b and internship which is the practical experience lesson plan. Our problem was that when you look at their time they are washing clothes, greeting customers, they are doing things in a 6 or 8-hour specific activity that is nominal at best and the intent of it is to actually follow through a process of massage therapy. You may greet a client you are going to disclose you are a student you are going to go through a whole process from beginning to end for a massage. What we found was they washed clothes for eight hours or they did one motion in a long period of time 6 to 11 hours of doing something and there was very little detail. Even on the days when there was massage done the document that we referred to as far as the consent were credited. So, it is not a matter of the new content it is the old content. If you

looked at those pages it was intended for someone to go through a wholistic function so they were working in a massage parlor as a massage therapist not just as a front desk staff member. There was a substantial amount of training time that was not directly related to massage and the practice of massage and the actual time accounted for. That is what we are saying the disparity is. The old curriculum that was approved if it was actually performed per their time sheets.

Commissioner Clark stated, it is my understanding that they are not following the approved curriculum not necessarily that the curriculum didn't get approved. Administrator Wuest, responded yes that is our finding. They weren't truly following what they should have been for the internship aspect.

Commissioner Clark stated, this seems to be a pattern of flying by the seat of the pants. When you make changes like this you have to submit those changes for approval before you implement them. The other issue for the background check for the instructor, it is my understanding that the CPE staff does not respond to the submission of that information unless there is a problem. So, if you had submitted that information three weeks prior to that date the employee may have been able to teach that class. What made you believe you had to wait for approval from the commission before they could teach the class. Mr. Chung replied, I believe it was from our last experience when we tried to obtain approval from Mr. David Hurray, we had submitted the application and there was an issue about his, I don't remember the issue I just remember there was an issue. I just remember we had to have expressed approval from the CPE, so I assumed we had to have the expressed approval again for each instructor. This is Administrator Wuest, on his past the individual he is referring to had to deal with he had a valid license to perform massage therapy with the state and Mr. Hurray the one we had discussed back in January early February had not actually done his renewal so his license had actually expired. While they go back and reinstate it after the fact. At the time we prepared our report and all the details he had not had an active license. So that is something that does come in contention with any active school of massage therapy it is like a doctor or a nurse or anything like that we do have to validate that they do have a current license. Mr. Chung added, we had assumed since he had a license it was active and all good. Commissioner Clark stated, seems like an honest mistake and at the end of the day a class had to be cancelled.

Commissioner Nielson, staff testimony from the Nevada State Board of Massage Therapy, was there an intent to have that? I would like to hear her input today.

My name for the record, Maggie Adams, Southern Nevada Operations Manager for the Nevada State Board of Massage Therapy. Is there a specific question I can answer? Commissioner Nielson asked, you were going to provide testimony about this item on the agenda? Ms. Adams replied, yes sir, there were a few things about the curriculum I found. The curriculum was sound, however, when observed the classroom there were instruction going on in Chinese, the textbook is English and the tests are in English. So, there is a concern from a curriculum standpoint of how

that is taken into consideration to meet the ESL needs of the students. How can you teach in one language and have the test in another? There is a comprehension issue and that would translate into the regulation and seeing the test in English with A's and B's is passing. The question then becomes, is this an open book test? Because those passing rates are rather high. Anatomy for example, is difficult when English is your first language, so that was a question. The other concern that I had was we were told at that visit that the students were given the option of given copies of the textbooks. I reached out to the publisher and asked if there was some sort of agreement because that is less expensive for students, but is that the way to go? The publisher has gotten back to me and stated that is a copyright violation and that there is no agreement for that sort of thing. Aside from that, once they are out a textbook is a resource and a continuing resource once you graduate. Especially, in the area of massage where you can go back if you have a client with an issue you can go back to that book and use it has a reference. Those were part of my concerns regarding the test site. Also, on the first day of school and then on the second day of school there was an anatomy quiz and the second half of the second day of school there was an anatomy quiz. That seems to me as a pretty quick turnaround for actually getting and actually absorbing information. So those are a few of my concerns as listed.

Commissioner Nielson asked, can you confirm that their pass rate is what they have stated? Ms. Adams replied, yes, I did 17 of the first-time testers 15 passed 88.2% rate and this is from MBLEX and the NCETM, I did not get information on the NCTMB. On the second time two of the second-time testers passed. That is a high pass rate and also this test is offered in English, there is not a option for any other language.

Commissioner Hersha asked, can I ask how that test is given is it paper and pencil test or online? Ms. Adams responded, it's a testing center. It is online, but you got to a central testing center. It is offered in a centric testing center.

Commissioner Clark asked, would that pass rate on the MBLEX be indicative of students learning in the classroom, I know you were concerned about this and the ESL issue. Would that indicate that the students did actually learn the material at the level? Ms. Adams replied, it would indicate the understanding of the information.

Commissioner Cantu asked, there is indication of open book or cheating happening? Ms. Adams responded, I cannot state yes this is happening. I do know that the reflexology testing we had to have that test in Chinese because the applicants were not able to understand the English test.

Commissioner Clark asked, is the MBLEX offered in Chinese or is it only offered in English? Ms. Adams replied, it is only offered in English and Spanish. Ms. Wang, began speaking addressing the commissioners. Papers were being moved the conversation was inaudible. Ms. Wang continued, we teach in both Chinese

and English. We have ten years teaching in both Chinese and English and that is why they MBLEx exam so they have centers and all around the room they have cameras so they cannot have cheating. Ms. Adams added, there have been issues with comprising tests. Attorney Salmon asked, if the particular student had been from this school. Ms. Adams replied, no I was just responding to the cameras and being able to cheat.

Commissioner Cantu stated, as I recall there was also a previous application with a previous school and some information on that about issues. Administrator Wuest responded, in their initial application they failed to bring up Royal Irvine College and the other Elbe Institute and we found out except. Commissioner Cantu asked, had there been problems with these schools in the past. Administrator Wuest commented, yes, Elbe Institute they are currently licensed they are not currently authorized to teach massage according to the BPE, we went to their state licensing to look at it. The Royal Irvine College was actually removed by. This is Commissioner Cantu again, there seems to be a continuing pattern of administrative problems in many different areas. In looking from the responses at least from my standpoint the responses don't actually all answer from the initial report.

Administrator Wuest stated, one of the things we have not talked about is the disparity in records showing people attended on Thanksgiving Day which is a school closure day on Christmas Day in a classroom setting. There was disparity in time that we know from actually talking to the different actual massage councils, the national board, those are things people look at when people go in for licensing. How do you do eleven hours in massage in a day? How many of us can work eleven hours in a day? Actually, learn from that or even do a good job. There was lots of different little things people asking for a day off and then recording they took a test or their attendance was there. When I went on a visit there was one person in attendance, but the class enrollment was eight. When they went to Avalon Spa they say it was a day when they weren't teaching class and according to the spa it was a week and they extended graduation out by one week. So, it wasn't just a day it was just a coincidence of us showing up and there was not being courses being taught on that day is a red flag. I have college that have a snow day and actually call me and tell me they are not have courses that day. These are accredited colleges that do that. We have on a provisional license on extended provisional that we are not able teach. If that would have been communicated we could have rectified that problem. Commissioner Clark asked, you mentioned that schools would call you and tell you if there was a snow day. Is this a requirement for a closure like that? Administrator Wuest responded, there is not a NRS that requires it. Most of the institutions that have done so do it in case a student files a complaint. It is a good notice that they are not having their courses and as you know with an accredited course if you miss so many days of instruction you would have to extend out your time because you have to meet a certain standard.



This is Irvin Chung, the school director I request an opportunity to speak. Ms. Wang explained, the reason for the cancelled class instructor was ill. Mr. Chung added, most Asian do not celebrate Thanksgiving so they choose to work in practicum and have the spa is open.

Administrator Wuest addressed what Mr. Chung stated, the individual had actually taken an exam on Thanksgiving Day and it indicates it is a classroom activity. The person on Christmas Day states classroom activity that their contract states they began on Christmas Day. The school by their published catalog states they are closed on Christmas Day. Mr. Chung requested supporting documents, since he was not aware. Administrator Wuest stated, it is in the packet given to commissioners. Mr. Chung reviewed his own documentation stated he did not have those documents. The documents in the commissioner packet were given to him.

Commissioner Cantu stated, it appears there are inconsistencies in following their published catalog this is what I am talking about with administrative issues. This is exactly what I am talking about.

Deputy Attorney General Robert Whitney stated, Commissioner Frederick is going to give the documents to Elbe representatives. It is only fair they have the documents presented in the commissioner packet to be able to respond to the allegations.

Commissioner Clark asked, Mr. Whitney to repeat. Mr. Whitney, replied Commissioner Frederick will be giving the documents to the school so the school will be able to respond since they did not have any information pertaining to the findings and were not informed of the issue prior to this meeting. Commissioner Clark then suggested the entire subject be stricken from the record and we move forward and not include this information for the findings. Commissioner Cantu responded, this is not what we were not trying to hide anything we are being transparent by delivering this information to the school here in the meeting and they will be allowed to respond after reviewing the reports. I think there is a wealth of information for us to respond to regarding this institution.

Deputy Attorney General Robert Whitney, stated the NAC states we need to make a decision at a regularly scheduled meeting and I believe this is the last one before the two-year license expires. Administrator Wuest, yes, it is. Mr. Whitney, will this extend this out past February of 2019. Commissioner Frederick stated, we have a meeting in November as well. Mr. Whitney furthered, we can actually continue this is the commission so desires.

Commissioner Clark asked, just for clarification is there a page number for the discrepancy in attendance? Administrator Wuest stated, it is under exhibit 4.

Ms. Adams, stated the reflexology exam was given prior while student was still marked attending the school and marked as attending. (several people talking inaudible – multiple parties talking and no one introduced themselves). Commissioner Cantu here, so they were studying for an exam that was allegedly again several people talking inaudible.

Ms. Wang began speaking that is why we cancel class and the exam the students were done. The Thanksgiving was a take home test.

This is Commissioner Cantu, while I think it is wonderful to offer bilingual instruction being a Spanish speaker first. I think there are red flags where I am having issues is the high pass rate is a consideration. Ultimately the greatest concern is the individual is not receiving what they pay for in the catalog.

Attorney David Salmon stated, I would like to bring back to when the rubber hits the road they are making it. I am here because I was hired. They are passing the exams and the purpose is being accomplished. I understand we have statues and regulation and they need to be compliant. There are red and yellow flags regarding the administration. I was brought on recently. We can hire the experts. Anything the Administrator requires this school has and will currently will fix immediately. Each time the school has fixed the problems. I hate to have the school close when there is something that is fixable. This school has tried to address and will continue to address. If we have not provided a satisfactory response tell us what a satisfactory response is and we will do it. If we need to hire someone else we will hire someone. If we need another temporary we will do that.

Commissioner Hersha stated, I don't see transparency. I agree with Commissioner Cantu, it is a shame to the students. I see the results. Why can't you be transparent? The ongoing administrative issues are red flags and yellow flags. I believe it is our ethical responsibility to bring up the issues. Why can't you be transparent? The administrative issues will ultimately cause issues with the students.

Mr. Chung responded, we have updated our records and we have recorded the items.

Commissioner Clark stated, you bring up the fact they have corrected the hours. The issue is you do not document. What we are lacking is the documenting. I heard your attorney state you will hire people, that is not the first time we have heard you mention that at this board. We continue to receive inaccurate information that we have to use to make corrections on. You have the entrance exam as Wonderlic then you change and decide it is not a good indicator, did you change the catalog? Mr. Chung responded, we have submitted the catalog and haven't heard back. (background talking, we have not received a catalog – no names or information.)

Commissioner Cantu stated, I know that we have talked about the administration, but I have curricular concerns. So, we have inaccurate information. We have ethical issues, we cannot keep a business in business if they are failing to do the documentation and follow the guidelines.

Commissioner Frederick explained, what we are looking at is the daily time sheets. One student for three days straight cleaned, learned how to clean and sanitize. There is no signature if this is not correct and there is no supervisor signature that is all we have to go by. Mr. Chung responded, I know that is not correct or a portion of the form. Commissioner Frederick furthered, if that's the case these blocks of time greeting customers 7 hours. Mr. Chung explained, there are additional items that happened that day. Commissioner Frederick continued, see this is what I am talking about. Commissioner Hersha commented, this is what I have a problem with and this is your form. You cannot assume the commission is going to approve and follow up with your instructors and then not follow up with your catalog.

Attorney Salmon, I would ask the commission, there is a class that is currently going on I would request some type of provisional to get us through that semester they are teaching now? It would allow the current students to pass and they have proven history of passing students. I will go through all the policies and procedures I have not had a chance to go through that. I just recently came on. We can address everything the board has given us. I will actually consult an expert in this area. If you can give us that much time. It will be until the end of October and then we can come back in November. It is true there have been problems in the past, but I would like to have an opportunity to save this.

Commissioner Nielson began speaking, I would like to ask Mr. Whitney, what are our options today. Mr. Whitney replied, today you can either grant full term licensure, you can deny provisional license, or you can continue the matter until another regular scheduled meeting which the next one is in November.

Commissioner Cantu asked, so we could put off the decision until November, but would could not put it off another time? This is Robert Whitney, you are correct. November will be the last meeting before the two-year approval.

Administrator Wuest stated, I do want to point out part of the student would be the same pile of students. It would require us to be back at the school within a 30-day time frame.

Commissioner Cantu stated, it seems to be late in the game to bring in these remedial efforts you describe you intend to bring in. It is very concerning to me.

Commissioner Nielson asked, Mr. Whitney is there an option to extend a provisional licensure? Mr. Whitney responded, it has always been my understanding you cannot extend the provisional licensure past the two-year

period. It has to be full term licensure before February 2019. Commissioner Nielson, I was just looking for middle ground.

Commissioner Clark, so it is my understanding is that we have until November to get this school into compliance with a new policies and procedures manual that the Attorney has offered to assist them with. Is that correct? Attorney Salmon replied, yes, that is correct. Commissioner Clark continued, you will also have to bring evidence that the school is in compliance in two months. Mr. Chung, I believe we can provided that Administrator Wuest

This is Commissioner Cantu, I have a concern that they cannot bring this institution around in that short amount of time.

Commissioner Clark asked, Ms. Wuest would you agree with that assessment? Administrator Wuest responded, yes, as you know the statute requires that at least 30 days prior to the meeting that we actually go and perform an audit which gives us our last date of October 7, to be able to go in a perform. We would be auditing much of the same material we recently audited. I do want to point out NAC 394.446 number 4 can extend further if they are considered to be minor. I do not consider these to be minor. That is the reason I recommended termination of their license is because I do not consider these to be minor, the finding to be minor.

This is Commissioner Clark, could we also have a contingency that there be no new enrollments? Mr. Chung responded, yes sir. Commissioner Clark added, for discussion purposes. Mr. Chung added, yes sir. Commissioner Clark furthered, I want to make sure we have everything on the table.

This is Commissioner Hersha, so you said this class would be over in October? Mr. Chung responded, yes, I did. This is Administrator Wuest, their catalog says October 12.

This is Commissioner Cantu, in looking at the information from staff there is enough information from the preponderance of information of the evidence that there is enough information for this board to procedure with some sort of action to deny this license for now instead of kind of move this process forward when so much information has been presented, it's compelling. Mr. Chung replied, I would disagree with that. Our attorney has pointed out this is all administrative, our pass rate has shown what we are actually teaching.

This is Commissioner Clark, my concern is this, I keep hearing a tone from the school that is as long as the students are passing the MBLEX they should be able to do whatever they need to do to pass that, that is my problem. You don't want to be a licensed vocational school in the State of Nevada. To be a licensed school in the State of Nevada you need to follow the guidelines for the NAC and the NRS. Attorney Salmons, I understand we (inaudible due to others speaking).

This is Commissioner Cantu, what would have to the students if we terminated the license now and the class is not over until October. This is Administrator Wuest, you may not know we have an account for student indemnification. Every school is required to have a bond. If their license was terminated the students would receive a full refund of all monies paid. So, we would go to the contract see how much the students were paid and the students would be refunded the money. Then they would be provided information about other schools they could attend. Attorney Salmons commented, they would have to start over, let's keep that in mind. They would have to start the process over again.

Commissioner Clark, since there is a pause in the discussion are we at a point where somebody would like to a make a motion.

Motion: Commissioner Cantu, I move we deny licensure to Elbe Institute.

Deputy Attorney General Robert Whitney, before there is a second Commissioner Clark, just a suggestion, maybe Commissioner Cantu can state why.

Commissioner Cantu, based on the report and findings by Administrator of the Commission on Postsecondary Education I move that based on the preponderance of information that we received today, we deny licensure on the basis we received. Also, on the information from the State Board Personnel that are present.

No second.  
Motion dies.

Motion: Commissioner Frederick, I move that the provisional license be extended to November the meeting and whatever findings are presented by the State Board of Massage Therapy and also CPE staff be presented at that time.

Second: Commissioner Cantu, I second.

Discussion: Commissioner Clark asked, are we going to allow the school to continue to enroll new students?

Motion: Commissioner Frederick, I amend my motion that no further student enrollments be processed.

Second: Commissioner Cantu, I amend my second.

Results: Unanimous, motion passes.

Commissioner Clark stated, the provisional license will be extended until the November meeting the school will work to come into compliance as far as the findings that have a present evidence at that meeting.

### **Commission Comments**

None.

### **Public Comment**

None.

**Meeting Adjourned**

The meeting was adjourned by Commissioner Clark. Time: 11:45 AM.