

NAC Chapter 640C Draft Regulations

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Licensing

New Provision 1: Adds to LCB File No. R040-18 Sec. 26 (NRS 640C.320; NRS 640C.330)

1. *To receive and maintain certification by the Board, massage establishments, reflexology establishments and structural integration establishments:*
 - a. *Must comply with all requirements in NAC 640C.200 to 640C.310, inclusive, and those requirements in LCB File No. R040-18 section 15 through 19.*
 - b. *May not be convicted for a violation of NRS Chapter 201 as amended by AB166 from the 80th Legislative Session.*
 - c. *The owner of the establishment may not be arrested or indicted for acts of prostitution, acts of pandering, labor trafficking, or sex trafficking.*
 - d. *The owner of the establishment may not be arrested, indicted, or convicted for acts of drug distribution or any illegal activity occurring in the establishment.*
2. *After notice and hearing, failure to comply with the requirements in subsection 1 may result in disciplinary action against the certificate pursuant to NRS 640C.700, NRS 640C.710, and NRS 640C.712.*
3. *All massage establishments, reflexology establishments and structural integration establishments must maintain a current certificate issued by the Board pursuant to NRS 640C.330.*
4. *As part of the application, the applicant must provide a copy of the following documents:*
 - a. *State business license*
 - b. *City and/or county business license*
 - c. *Menu/price list*
 - d. *Photograph of the entrance to the establishment*

New Provision 2: (NRS 640C.320; NRS 640C.420)

For applications submitted pursuant to NRS 640C.420, the Board deems jurisdictions requiring the following as “substantially equivalent”:

1. *For massage therapist, the jurisdiction must require a minimum of 550 hours of training in a massage therapy program.*
2. *For reflexologist, the jurisdiction must require a minimum of 200 hours of training in a reflexology program.*

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3. *For structural integration **practitioner**, the jurisdiction must require a minimum of 730 hours of training in a structural integration program.*

For applicants who were issued licenses under grandfather clauses, an applicant must have five years' of verifiable experience practicing massage therapy, reflexology, or structural integration, as applicable.

For massage therapist applicants applying based on apprenticeships, the applicant must have 1000 hours of verifiable training prior to licensure in that jurisdiction and five years' of verifiable experience practicing massage therapy.

For reflexologist applicants applying based on apprenticeships, the applicant must have 400 hours of verifiable training prior to licensure in that jurisdiction and five years' of verifiable experience practicing reflexology.

The Executive Director or his or her designee shall maintain a list of jurisdictions with substantially equivalent licensing requirements.

New Provision 3: Adds to NAC 640C.100 as amended by LCB File No. R040-18 Sec. 21 (NRS 640C.320)

(a) At least 2 of the 24 hours must be ~~in-person~~ on the subject of human trafficking for all licensees within their first licensing period. For all licensees who work or reside in a county with a population greater than 100,000, this education must be completed in person.

(b) At least 2 of the 24 hours must be on the subject of ethics. The subject of ethics includes, without limitation, the requirements of NRS 432B.220, the standards of conduct for licensees, the requirements of HIPAA, human trafficking, and additional applicable Nevada and Federal jurisprudence.

*(c) All current licensees are eligible to complete the Board's jurisprudence examination and will ~~to~~ receive 2 continuing education **ethics** hours for successful completion of the examination.*

New Provision 4: (NRS 640C.320; NRS 640C.420)

“Clinical instruction” is defined as practicing massage therapy, reflexology, or structural integration on members of the public in a clinical setting. “Members of the public” may include other students, licensees and Board members so long as the clinical instruction is completed in a clinical

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setting for educational purposes, the practice of which includes client intake, evaluation, client treatment notes and evaluation of the student.

New Provision 5: Adds to NAC 640C.050 (NRS 640C.320)

Effective July 1, 2020, all applicants for a license to practice massage therapy, reflexology or structural integration must pass a jurisprudence examination on Nevada law administered by the Board.

New Provision 6: Adds to LCB File No. R108-17 Sec. 6 and R040-18 Sec. 25 (NRS 640C.320; NRS 640C.520)

1. For an application for a license as a massage therapist, a reflexologist or a structural integration practitioner *using the Internet website of the Board...* \$100.

For an application for a license as a massage therapist, a reflexologist or a structural integration practitioner using a paper form... \$130.

5. For renewing a license as a massage therapist, a reflexologist or a structural integration practitioner *using the Internet website of the Board...\$2795.*

For renewing a license as a massage therapist, a reflexologist or a structural integration practitioner using a paper form...\$325.

For the jurisprudence examination...\$50.

For reissuance of an establishment certificate that has been modified or a duplicate... \$25.

For petition for criminal history review by the Board... \$50.

Continued Compliance with License Requirements

New Provision 7: Adds to LCB File No. R040-18 Subsection 2 of Sec. 19 (NRS 640C.320; NRS 640C.330)

Any statement made by a client to a massage establishment, reflexology establishment or structural integration establishment operated by the holder that the client was touched inappropriately by a massage therapist, reflexologist or

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structural integration practitioner. ~~*The report must include the name of the client.*~~ *Any establishment that receives such a statement must inform the client that a report may be made to the Board and offer to report the incident on the client's behalf. The establishment shall inform the client that a report would include the client's contact information and that any personally identifying information in the report would remain confidential by the Board until otherwise authorized by the client.*

A massage establishment, reflexology establishment or structural integration establishment must post in a conspicuous manner, a Client Bill of Rights. This posting may be provided by the Board or at a minimum, must include the following:

New Provision 8: Adds to LCB File No. R040-18 Sec. 16 (NRS 640C.300; NRS 640C.320; NRS 640C.750)

A licensee or a holder of a certificate shall ~~notify~~ *report to* the Board in writing within 10 business days after:

1. An action is taken against any license, certification, registration or other credential relating to the practice of massage therapy, reflexology or structural integration that is held by the licensee or holder of a certificate and was issued by another jurisdiction;
2. A criminal charge *or arrest* is filed in any jurisdiction against the licensee or holder of the certificate;
3. The licensee or holder of a certificate is convicted of a criminal offense in any jurisdiction, other than a *minor* traffic offense, *as defined in NRS 622A.220 which is a misdemeanor*;
4. A civil action for malpractice is filed in any jurisdiction against the licensee or holder of a certificate; or
5. A settlement or judgment is entered in any civil action for malpractice, in any case filed in any jurisdiction against the licensee or holder of a certificate for any act relating to the practice of massage therapy, reflexology or structural integration, as applicable.
6. *The issuance of any extended order of protection for domestic violence, stalking, or harassment entered against the licensee initiated in this State or any other state or territory or by the Federal Government, or a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.*

All licensees must remain in compliance with the licensing requirements for the duration of their licensing period.

1. *To ensure compliance with these requirements, the Board may conduct annual inspections or other inspections as needed of the*

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massage, reflexology or structural integration establishment in which they practice.

The Executive Director or his or her designee will review all reports made pursuant to this section and initiate an investigation as he or she deems necessary. The licensee may be asked for additional information about an event, and making a report as required by this section does not automatically mean the Board will take disciplinary action against the licensee. Failure to report a qualifying event as required by this provision or failure to participate in the Board's investigation of a report made pursuant to this section is grounds for disciplinary action.

Standards of Practice

New Provision 9: (NRS 640C.320)

A parent or guardian has the right to be present with his or her minor child in a room in which his or her minor child is receiving massage therapy, reflexology, or structural integration treatment. If the parent or guardian of a minor child, waives his or her right to be present, the massage therapist, reflexologist, or structural integration practitioner shall ensure that a written, signed waiver is obtained from the parent or guardian prior to providing treatment to the minor child. The massage therapy establishment, reflexology establishment, or structural integration establishment shall ensure that all massage therapists, reflexologists, or structural integration practitioners in the establishment obtain this waiver and ensure that the written, signed waiver be maintained in the client's file for a minimum of two years.

New Provision 10: (NRS 640C.320) **Amend NAC 640C.230 Requirements for room in which massage therapy is practiced.** (NRS 640C.320)

1. A room in which massage therapy, reflexology or structural integration is practiced must:
 - (a) Be designed to provide privacy for the client;
 - (b) Have the capability of maintaining the air temperature in the room at 75 degrees Fahrenheit at a point 24 inches above the floor;
 - (c) Have sufficient ventilation and circulation to prevent objectionable odors; and
 - (d) Have lighting fixtures which are capable of providing a minimum of 5 foot-candles of light at the floor level. Such lighting fixtures must be used when any cleaning operations are conducted in the room.
 - (e) Have at least 18 inches of open space on each side of the massage table that allows a person to circumnavigate the table safely.*

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2. ~~A room in which massage therapy is practiced~~ *A massage therapy establishment, reflexology establishment, and structural integration establishment must* may not be used simultaneously for massage therapy, reflexology, or structural integration and any ~~domestic dwelling~~ purposes.
3. *A room in which massage therapy, reflexology or structural integration is practiced must not contain surveillance equipment. If a computer is present in the massage therapy, structural integration or reflexology treatment room, any camera in the computer must be covered whenever a client is present and monitor screens must not be readily visible to the therapist. This provision does not include client-owned devices or devices owned by passers-by in an out-call setting, and does not prohibit surveillance as mandated by the Gaming Control Board.*
4. *A room in which massage therapy, reflexology or structural integration is practiced must not be video- or audio-recorded.*
5. *A client may sign a written waiver allowing photographs of him or her to be taken during the massage therapy, reflexology or structural integration treatment for treatment and/or educational purposes; the areas photographed must not include those areas prohibited by sub-section 21 of New Provision 33. In such situations, the massage therapist shall ensure that a written, signed waiver is obtained from the client prior to taking the photographs. The massage therapy, reflexology or structural integration establishment shall ensure that all massage therapists, reflexologists or structural integration practitioners obtain this waiver and ensure that the written, signed waiver be maintained in the client's file for a minimum of two years.*
6. *No part of this section is meant to inhibit the ability of law enforcement to conduct an investigation.*

[Note: "...a dwelling need not be continuously or permanently occupied to be inhabited..." *Dunham v. State*, 134 Nev. Adv. Op. 68, 426 P. 3d 11, 15 (Nev. 2018).]

New Provision 11: Adds to NAC 640C.200 as amended by LCB File No. R108-17 Sec. 18(2)(b) (NRS 640C.320)

Where disinfection and sanitization are impracticable, a barrier must be placed between the client and the surface. "Barrier" includes, but is not limited to, a towel, linen or paper-roll.

A barrier is considered an item designed for single service, as referenced in NAC 640C.240 and must be changed between each client.

New Provision 12: (NRS 640C.510; NRS 640C.320)

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When a licensee requests that his or her inactive license be renewed pursuant to NRS 640C.510, the licensee must submit proof of completion of continuing education requirements for an active licensee during the period the licensee was inactive as proof that the licensee is qualified and competent to practice.

New Provision 13: (NRS 640C.320)

All massage therapy establishments, reflexology establishments, and structural integration establishments must maintain a list of all licensees practicing at the establishment and any ~~aliases~~ alternate names used by those licensees. The establishment must provide information from this list to the Executive Director or his or her designee upon request. This list must also be made available to a Board inspector during an inspection of the establishment. Any licensees practicing outcall massage must provide their ~~aliases~~ alternate names to the Board prior to use on the form provided by the Board. "Alternate names" include, but are not limited to, nicknames and preferred names.

New Provision 14: (NRS 640C.320)

1. Except as otherwise provided in subsection 3 and NRS 640C.757, every notice, decision, advisory opinion, declaratory order or other document to be served by the Board will be served by mail or delivery in person at the last known address of the person on record with the Board. Service thereof by mail shall be deemed complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail.

2. Every document required to be served by a party must be served by mail or delivery in person. Service thereof by mail shall be deemed complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail.

3. Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders to be served thereafter upon the party must be served upon his or her attorney and such service is, for all purposes, valid service upon the party represented.

New Provision 15: (NRS 640C.320)

All parties to hearings or other Board proceedings, their counsel and spectators shall conduct themselves in a respectful manner.

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New Provision 16: (NRS 640C.320)

In addition to the facts mentioned in subsection 5 of NRS 233B.123, the Board may take official notice of regulations, official reports, decisions, orders, standards or records of the Board, of any other regulatory agency of the State of Nevada or any other state or jurisdiction, or of any court of record.

New Provision 17: (NRS 233B.120)

1. The Board will consider petitions for declaratory orders or advisory opinions as to the applicability of any statutory provision or any regulation or decision of the Board.

2. A petition for a declaratory order or an advisory opinion must be in writing on a form prescribed by the Board.

New Provision 18: (NRS 233B.120)

1. Except as otherwise provided in subsection 2, upon receiving a petition for a declaratory order or an advisory opinion, the Board will place the matter on the agenda for discussion at the next regularly scheduled meeting of the Board.

2. If the petition is received within 30 days before the next regularly scheduled meeting, the petition may be placed on the agenda for discussion at the next meeting after that meeting.

3. At a meeting at which a petition has been placed on the agenda for discussion, the Board will consider any information relevant to the petition, including, without limitation:

- (a) Oral or written testimony; and*
- (b) Any other evidence.*

4. After consideration of the information relevant to the petition, the Board will grant or deny the petition.

5. If the Board denies the petition, no further action will be taken.

New Provision 19: (NRS 233B.120)

1. If the Board grants a petition pursuant to subsection 4 of New Provision 18, the Board will issue a declaratory order or advisory opinion. The President or other presiding officer shall assign one member of the Board to write the declaratory order or advisory opinion. The member so assigned has 30 days within which to submit to the Board the final draft, after reviewing comments by all members of the Board on the issue, researching the issue and seeking the assistance of the Attorney General, if necessary. Upon completing his or her draft of the declaratory order or advisory

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opinion, the assigned member shall submit it to the Board for final approval at the next regularly scheduled meeting of the Board. The declaratory order or advisory opinion must be approved by a majority of the members of the Board who are present at the meeting.

2. After the Board renders its declaratory order or advisory opinion, the Board will give notice of it to the petitioner.

New Provision 20: (NRS 640C.320)

A petitioner shall comply with the provisions of a declaratory order or advisory opinion issued by the Board.

New Provision 21: (NRS 233B.100)

1. Pursuant to NRS 233B.100, any interested person may petition the Board for the adoption, filing, amendment or repeal of any regulation.

2. A petition for the adoption, filing, amendment or repeal of a regulation must be in writing on a form prescribed by the Board and must include:

(a) The name and address of the petitioner;

(b) The reason for petitioning for the adoption, filing, amendment or repeal of the regulation;

(c) The proposed language of the regulation to be adopted, filed, amended or repealed;

(d) The statutory authority for the adoption, filing, amendment or repeal of the regulation; and

(e) Any relevant data, views and arguments that support the petition for the adoption, filing, amendment or repeal of the regulation.

3. The Board may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if the petition does not include the information required by subsection 2.

4. The Board will notify the petitioner in writing of the Board's decision regarding the petition within 30 days after the date on which the petitioner filed the petition. If the Board approves the petition for the adoption, filing, amendment or repeal of a regulation, the Board will initiate regulation-making proceedings concerning that regulation within 30 days after the date on which the petitioner filed the petition.

New Provision 22: (NRS 640C.320)

*Pursuant to NRS 622A.360(4), the Board authorizes its Chair to decide prehearing motions listed in NRS 622A.360(2) *with the exception of subsection (e)*. If the Chair is unavailable, this authority is delegated to the Board's Vice Chair. If the Chair, or Vice Chair, as applicable, believes that*

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the motion should be decided by the full Board, the Chair, or Vice Chair, may decline to exercise this authority and a Board meeting shall be scheduled to decide the motion at issue within the required timeframe.

New Provision 23: (NRS 640C.320)

*Pursuant to NRS 622A.390(4), the Board authorizes its Chair to decide post hearing motions listed in NRS 622A.360(1). If the Chair is unavailable, this authority is delegated to the Board's Vice Chair. If the Chair, or Vice Chair, as applicable, believes that the motion should be decided by the full Board, the Chair, or Vice Chair, may decline to exercise this authority and **the motion will be heard within 25 days.** ~~a Board meeting shall be scheduled to decide the motion at issue within the required timeframe.~~*

New Provision 24: **Amend: NAC 640C.200 Required facilities; sanitary and safety requirements. (NRS 640C.320)**

1. A massage establishment that provides vapor baths, steam baths or portable saunas must be equipped with adequate shower facilities. *A massage establishment that provides dry saunas is not required to have shower facilities.*

2. A massage therapist shall ensure that:

(a) All portable saunas, showers, tubs, basins, massage or steam tables, combs, brushes, shower caps and any other equipment used in the massage establishment is cleaned and rendered free from harmful organisms by the application of a bactericidal agent;

(b) Any equipment that comes in contact with a client of the massage therapist is cleaned with soap or detergent and hot water and is sanitized before the equipment is used on another client;

(c) All equipment, furniture and fixtures, including, without limitation, tables used for massage, are clean and well maintained;

(d) All electrical equipment used for the care of a client is clean and well maintained and is listed to applicable standards and requirements by Underwriters Laboratories Inc., or approved by another nationally recognized testing laboratory; and

(e) All hydrotherapy equipment is cleaned after each use, is well maintained and is only used in the manner prescribed by the manufacturer of the equipment.

3. A massage therapy, reflexology or structural integration establishment must be kept free of all insects, rodents or other vermin.

New Provision 25: **Amend: NAC 640C.250 Clothing and hygiene requirements.**

1. A massage therapist, reflexologist or structural integration practitioner shall:

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(a) Wear clean opaque clothing *which completely covers from the mid-thigh to two inches below the collarbone* and practice strict standards of personal hygiene while practicing massage therapy, reflexology or structural integration;

(b) Thoroughly wash his or her hands with soap and water or an alcohol liquid:

(1) Before and after providing massage therapy, reflexology or structural integration to each client;

(2) After using the restroom; and

(3) Sanitize his or her hands in the room or area, as applicable, in which massage therapy, reflexology or structural integration is practiced before and after each client.

2. A massage establishment, reflexology establishment or structural integration establishment which provides its massage therapists, reflexologists or structural integration practitioners with a uniform, must provide a clean opaque uniform.

~~3. For purposes of this section, clean opaque clothing does not include, without limitation, wearing a sports bra, bra, underwear, negligee, swimsuit, swim trunks, or bikini, without an opaque shirt and bottom garment covering those items. The Executive Director or his or her designee may grant exceptions to this regulation upon a showing that the massage therapist, reflexologist, or structural integration practitioner will be poolside at a resort.~~

New Provision 26:

Amend: NAC 640C.260 Water supply and water distribution system piping. (NRS 640C.320)

1. A massage establishment must have an adequate supply of hot and cold running water that is safe and sanitary. *Hot water must be at least 98100 degrees.*

2. The interior piping in a water distribution system in a massage establishment must be installed and maintained in compliance with any applicable local building codes or ordinances prescribing standards for plumbing.

New Provision 27: Amend: NAC 640C.270 Bathing facilities. (NRS 640C.320)

1. If a bathing facility other than a shower is used in a massage establishment, the bathing facility must:

(a) Have floors that are slip-resistant, easily cleaned and coved to a height of 4 inches;

(b) If an artificial surface made from resilient materials is used for the floor, be vacuumed with a wet vacuum frequently, to keep the floor clean and free from accumulated moisture;

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(c) Have interior walls and ceiling finishes which are easily cleaned and are impervious to water; and

(d) If there is more than one bathing facility, be separated by a nonporous, nonabsorbent floor.

2. A massage therapist shall ensure that:

(a) An effective watertight joint between the wall and the floor is maintained in a bathing facility that is used in a massage establishment; and

(b) Any rubber or impervious mats that are used in the bathing facility are cleaned, sanitized and dried between uses.

3. If a shower is provided in a massage establishment, the shower must:

(a) Have compartments which are impervious to water to a height of 6 feet above the floor;

(b) Have a floor that is furnished with a nonslip impervious surface; and

(c) Have tempered glass or acrylic glass doors if the doors are made of glass or a substitute for glass.

4. A massage therapist shall ensure that all bathing facilities provided for use in a massage establishment satisfy the requirements of chapters 444 of NRS and NAC.

5. As used in this section:

(a) "Bathing facility" includes, without limitation, a spa, **table shower**, shower, **Vichy shower, balneotherapy tub**, bathtub, sauna and steam bath.

(b) "Spa" means a pool primarily designed for therapeutic use which is not drained, cleaned or refilled for each user. The term includes units which employ hydrojet circulation, hot water, cold water, mineral water or air induction bubbles, or any combination thereof.

New Provision 28:

Amend: NAC 640C.350 Advertisements

Any advertisements for the practice of massage therapy, **reflexology or structural integration** must include the license number of the massage therapist, **reflexologist or structural integration practitioner** to which the advertisement pertains.

Any advertisements for the practice of massage therapy, reflexology or structural integration must not depict a person licensed as or portraying a massage therapist, reflexologist or structural integrationist in a manner inconsistent with the practice of massage therapy, reflexology or structural integration as defined by NRS Chapter 640C and NAC Chapter 640C. This includes, without limitation, any depiction of sexual activity as interpreted by NAC 640C.400 or failure to comply with proper dress requirements as defined in NAC 640C.350(1).

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Any advertisements for the practice of massage therapy, reflexology or structural integration must not be published on a platform which promotes sexual or illicit activity.

New Provision 29: Amends LCB File No. R040-18 Sec. 23

Violation	First	Second	Third or Subsequent
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Advertising to perform massage therapy, reflexology, or structural integration in a manner inconsistent with the practice... \$1,000... \$2,500... \$5,000.

Practicing reflexology on an undressed client... \$1,000... \$2,500...\$5,000.

New Provision 30: Adds to NAC 640C.210 as amended by LCB File No. R108-17 Sec. 19

- 4. A licensee must ensure there are no contraindications prior to use of any lubricant or topical application, including emollients containing herbs, essential oils, cannabinal, or industrial hemp on a client.*

New Provision 31: Amends NAC 640C.410 LCB File No. R108-17 Sec. 31

1. As used in subsection 9 of NRS 640C.700, *as amended by section 29 of Assembly Bill No. 179, chapter 275, Statutes of Nevada 2017, at page 1462*, the Board interprets ~~the phrase “unethical or~~ unprofessional conduct” to *be conduct that occurs in the course and scope of practice and* includes, without limitation:

~~*(p) Aiding, abetting or assisting any person in performing any acts prohibited by law.*~~

(cc) Advertising in a manner inconsistent with NAC 640C.350, as amended by New Provision 28.

The Board interprets “unethical conduct” to be conduct that occurs outside the course and scope of practice that relates to the licensee’s ability to practice safely and includes, without limitation:

(a) Aiding, abetting or assisting any person in performing any acts prohibited by law

(b) Performing any acts prohibited by law

New Provision 32: Adds to LCB File No. R108-17 Sec. 31

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Pursuant to NRS 640C.700 and NRS 640C.720, the Board may deny the application of a person who has been charged with engaging in or soliciting sexual activity during the course of practicing massage therapy, reflexology, or structural integration on a person even if the charge does not result in a conviction. Pursuant to NRS 640C.700 and NRS 640C.720, the Board may discipline the license of a person who has been charged with engaging in or soliciting sexual activity during the course of practicing massage therapy, reflexology, or structural integration on a person even if the charge does not result in a conviction. For purposes of this regulation, the Board will consider, without limitation, charges for sexual solicitation, pandering, prostitution, or sex trafficking.

New Provision 33: Adds to NAC 640C.400, as amended by LCB File No. R108-17 Sec. 30

The Board interprets the phrase “sexual activity” to include, without limitation:

20. Touching a client under his or her underwear or other clothing which the client has elected to wear.

21. Photographing and/or publishing photographs in any manner of the genitalia or breasts of a licensee or client.

New Provision 34: (NRS 640C.320)

1. The Board will consider petitions for review of criminal history as required by AB 319. Petitions must not be submitted prior to completion of the required background check.

2. A petition for review of criminal history must be in writing on a form prescribed by the Board.

New Provision 35: (NRS 640C.320)

1. Upon receiving a petition for review of criminal history, the Board will place the matter on the agenda for discussion at the next regularly scheduled meeting of the Board not later than 90 days after the receipt of the petition.

2. After review of the petition for review of criminal history, the Board will issue a determination whether the criminal history submitted will disqualify the petitioner from receiving licensure.

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New Provision 36: (NRS 640C.320; NRS 640C.600)

Notwithstanding the requirements of LCB File No. R040-18, the Board recognizes the International Therapies Examination Council (ITEC) program of reflexology.