

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. Under the Emergency Directive of Governor Sisolak 006; Subsection 1; The requirement contained in NRS 241.023 (1)(b) that there be a physical location designed for meetings of public bodies where members of the public are permitted to attend and participate is suspended.

NEVADA COMMISSION ON POSTSECONDARY EDUCATION

Wednesday, May 6, 2020; 9:00 A.M.

PLACE OF MEETING: This meeting took place via video conference with the below call information:

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Department of Employment, Training and Rehabilitation (DETR) Staff

Present during Video Conference

Chris Sewell, ESD Director's Office, Commissioner
Kelly D. Wuest, CPE Administrator
Maricris Wu, CPE Postsecondary Education Specialist
Susan Beckett, CPE, Administrative Assistant III
Matthew Sung, IDP, IT Technician VI, Field Services

Members of the Public, Media and Other Agencies

Present in Las Vegas

Robert Whitney, Nevada Attorney General Office Deputy Attorney General
Gerry Julian, Community Ambulance Health Science Center
Elvia Barba, United Education Institute
Lisa Nordman, Aviation Institute of Maintenance
Lisa Murphy, Southeastern University
Angela Paul, United Education Institute
Emily Green, Elite Professional Healthcare Training Academy
James (Jim) E. York, United Education Institute
Joe Fitzpatrick, Signature Real Estate Institution, LLC
Rafael, Rika Makeup Academy
Erika Rendon, Rika Makeup Academy
Daniel Kipnis, Classes.Vegas
Jason Smith, Laurus College

Member of the Commission on Postsecondary Education

Present during Video Conference Meeting

Larry Nathan (Nate) Clark, Chair
Sharon Frederick, Vice Chair
Dr. Thomas Kenny
Jill Hersha
Jon Ponder

STATE OF NEVADA
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May 6, 2020 – 9:00 A.M.

Call to Order

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

Public Comments

Commissioner Clark asked for public comment, no public comment.

Written Comments

This is Kelly Wuest, we have received no written comments.

Confirmation of Posting

Susan Beckett, for the record, Administrative Assistant III, Employment Security Division, Commission on Postsecondary Education. Yes, proper Notice was provided for this Meeting.

Open Meeting Compliance

For the record, this is Susan Beckett, again, in accordance with Governor Sisolak's Declaration of Emergency Directive 006; Subsection 1; The requirement contained in NRS 241.023 (1)(b) that there be a physical location designated for the meeting of public bodies where members of the public are permitted to attend and participate is suspended. The meeting will be held via videoconference only.

Roll Call

- Commissioner Cantu-Excused
- Commissioner Clark-Present
- Commissioner Frederick-Present
- Commissioner Hersha-Present
- Dr. Thomas Kenny - Present
- Commissioner Ponder-Present
- Commissioner Sewell - Present

Administrator Kelly Wuest: took roll via video.

Adoption of Agenda:

Motion: Commissioner Frederick - Motion to adopt the agenda for May 6, 2020.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, agenda is adopted.

Approval of Minutes February 12, 2020 Meeting

Motion: Commissioner Frederick – Motion to approve February 12, 2020 meeting minutes.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, motion carries.

Administrators Report

Administrator Kelly Wuest read the report from the submitted report in the packet.

Emergency Provisions for Distance Education related to COVID-19

Administrator Wuest updated the Commission on the status of institutions, some doing distance education whenever possible, others are closed due to governing bodies not permitting operation remotely, such as Massage and Gaming. Administrator Wuest asked the Commission for guidance on reopening institutions.

- Commissioner Clark, do we have options we need to consider?
- Administrator Wuest, some of the options would be considering whether to set up specific protocol or general protocol? Do we look to our health departments to set up the protocol because they have already done this for the EMT program? Institutions are looking for a direction on how to proceed. Some of this will be dictated by occupational boards. Do we want to set parameters? The Governor stated he was looking at all the boards and commissions to have input. We are not required to do something, but I think it would be good to have something general.
- Commissioner Dr. Kenny, I do think providing some sort of guidelines would be helpful. It has been an ongoing conversation in our institution. I think it would be ten in a classroom, but I think we need to provide some sort of clarification so that institutions are not guessing.
- Commissioner Frederick, I am concerned about the students who are impacted and not able to complete their studies maybe they need a plan B, so they can complete their work.
- Commissioner Clark, from my standpoint are you talking about massage institutions and gaming institutions?
- Commissioner Frederick, yes, the students that cannot complete distance education.
- Commissioner Clark, our institution has students that did not have the technology. We were able to apply for the emergency financial aid for students. They could purchase a laptop, and or internet. Those students also needed help with technology. I am pondering over what are options are here.
 - Follow CDC Guidelines
 - Follow the Governors Directive, no more than ten people congregate.
 - A summary of the Directive and CDC Guidance for institutions to follow.
 - Beyond that, would that extend liability to CPE if we get it wrong?
- Robert Whitney, regarding possible liability I would have to look into that. It has been a long time since I have researched that, but I don't believe the Commission would be liable if they provided their interpretation of the circumstances and guidance. If we require additional clarification, we can reach out to the Governor's Office.
- Commissioner Clark, what is it that we are actually looking for on this issue? Are we going to develop guidance for all institutions or specifically for those gaming and massage institutions or are we just going to refer them to the information that already exists from the Governor's Office and CDC?
- Commissioner Hersha, I would like to add that we also need to add that we need to also add the six-foot guidance, as well. Using some common sense with the ten people and

also providing the PPE. As a side note, even though the libraries are closed in Southern Nevada, there is still Wi-Fi in the parking lot that is available.

- Commissioner Clark, I think that anything we take into account also needs to be a part of the reopening plans. I am having a meeting this afternoon about reopening plans as we are trying to figure out our plans too.
- Commissioner Dr. Kenny, I am concerned the lack of clarity and our program is also working on reopening. I would like to hear from Kelly regarding her perspective for the gaming and massage institutions, is there a potential action?
- Administrator Wuest, I think Robert Whitney could expand on this, I asked him about the need to set aside or suspend those provisions of the NAC. Ultimately, the Governor would have to sign off on emergency provisions. The Gaming Control Board is working on plans concerning table game operations.
- Commissioner Clark, am I hearing you correctly? Are you saying there may not be as much of a need today as there was when you created this agenda item?
- Administrator Wuest, in part, when it comes to the aspect of gaming and massage therapy. We have 150 licensed institutions reaching out asking about protocols with the Directives and the CDC. Part of the request is do we want to get more specific or not?
- Commissioner Clark, I was under the belief that the laws pertaining to COVID, distancing and all that are already out there, and it would be a matter of summarizing what is already out there which a lot of organizations have already done. I did read there was a potential sub-committee that could be formed, what that for this agenda item?
- Administrator Wuest, it was intended for a subcommittee to come up with those parameters It was an option.
- Commissioner Clark, was it an option related to Item J, Emergency Provisions for Distance Education related to COVID-19?
- Administrator Wuest, yes.
- Commissioner Clark, okay. So that is the other option to form a subcommittee? Do we want to have some discussion about that? My thoughts are if we form a subcommittee, is the subcommittee to be helpful with institutions in transitioning back and forth and decide what phase we are in and reopening, or would this subcommittee be tasked with protecting the students and the consumers and watching for institutions that are trying to gain the system and put profits above the needs of the students, or would it be both?
- Commissioner Dr. Kenny, I think moving forward on some of the addition clarification that is out there. I don't think we will have value if we don't have additional clarification beyond what the Governor's Directive. Do we want to push out more information of that effect? I am not clear on the purpose of the subcommittee.
- Commissioner Clark, is there an expectation from the Governor's Office that we have clarification or a subcommittee, emergency provision or is there any direction from the powers above us?
- Administrator Wuest, Commissioner Sewell may have more information because he is higher up in administration than I am, but I have not received anything directly. When I first did, I was given no guidance from any occupational board, but now I am starting to receive information.
- Commissioner Sewell, I think the direction from the Governor's Office is very cautious in setting up with each occupational board with what is best for each occupational board. Whether it be gaming or massage or any of the variety of boards that we have in this state.

If you want to look at the gaming regulation, why do that have that prohibition? At this point in time it might be better to just wait and see how each board handles the phases, what is currently happening, and what they have planned for reopening.

- Commissioner Clark, I think the questions left are if we form a subcommittee, I think the first thing they would need to do is to reach out to the gaming board and the massage board and find out why did they prohibit online and could we work together to have online be a piece of their training and how to be on campus and practice social distancing. I think a lot of that will have to do with whatever phase of reopening we are in. It is going to need to be fluid and change as the circumstances change. What are we gaining from doing any of that?
- Commissioner Dr. Kenny, the focus of that subcommittee could be working with those boards to focus on those challenges. I do see that could be of value. I do think that pathway will of value. I think that if we do not find an option, we will see corporate closures and institution closures across these two industries, specifically. If we could do that I would be in favor of that focus of the subcommittee, at least two start.
- Commissioner Clark, if a subcommittee is formed would it be good if they could monitor reopening plans? Would these institutions submit plans of reopening and bringing students back on campus during various levels? Administrator Wuest, is this even close to what you had intended, envisioned when you placed it on the agenda?
- Administrator Wuest, these types of issues and the regulations we discussed the last update was in 2012. I would have to go back into the archives to find out where they were initiated from, they were well before video none of the technology we use today in distance education or in the classroom was available at that time. They are really old regulations that have not been revisited in years. Dr. Kenny mentioned we will have some institutions close if we do not reach out and address the issues, that is very true. That was one of the main items to focus on was to look at these specific occupations and overall people just transitioning back because we are getting a lot of questions, especially small institutions. How do we proceed because they don't have the expertise?
- Commissioner Clark, then who do we envision being members of this subcommittee?
- Mr. York, I am the Campus President of a new institution on the agenda today. When Doctor Kenny and Kelly are talking about institution closures that scares me a lot and a lot of the student out there really need what we do. I am not sure if you want a new kid on the block, but I just wanted to offer my services.
- Commissioner Clark, thank you. That leads to my last question, who do we envision being members of this subcommittee? Are we talking commissioners, staff members, or general public?
- Administrator Wuest, if we form a subcommittee there would have to be commissioners on the subcommittee and it would be a public meeting, we will have to have an agenda and post three days prior. We could have members from institutions, but I am not sure the limitations from other public for a public board.
- Commissioner Clark, do you have a comment Mr. Whitney?
- Deputy Attorney General Robert Whitney, definitely a subcommittee should be made up of the majority of the committee members being voting members of the commission. There is nothing that I can think of that would prohibit non-commission members from being on the committee as long as they are not in the majority. It should also they be advisory and non-voting members.

- Commissioner Clark, is there anything else that we need to discuss that we haven't already discussed and if anybody has been taking some notes and if anyone has any idea of how this possible action might progress maybe to a motion?
- Commissioner Dr. Kenny, I am the new kid on the block for this commission. However, I would like to make the motion - should be, if it should be on an administrative level or if there is something more with additional details. (parts were inaudible)
- Deputy Attorney General Robert Whitney, I think the proposed motion is a good start by Doctor Kenny, but we should probably perhaps mention a process of how we are going to choose committee members or if we are going to ask for volunteers, it probably should be a bit more detailed. (parts were inaudible)
- Commissioner Clark, is anyone else having trouble with the audio? I am having a hard time hearing the discussion.
- **MOTION: Commissioner Sewell, how about I move that we set up a committee to review current regulations dealing with the current pandemic issues made up of three members of the commission, two members of the public and appointed by the chair in consultation with the Administrator of CPE and we can leave it at that.**
- Commissioner Clark, I actually heard that entire motion. We have a motion do we have a second.
- **SECOND: Commissioner Frederick, I will second the motion.**
- Commissioner Clark, we have a motion and we have a second. Do we have any discussion?
- Commissioner Ponder, I like the motion, with the persons from the public, would that be a part of this subcommittee? Is there a recommendation of who the public might be, a recommendation of the public that might be able to add value to the discussion?
- Commissioner Clark, that is a good question I am not really sure how to answer that until we sit down and start meet and speak with the occupational boards in question. What direction is this subcommittee going to go? Are we going to try to sway them to try to change their regulations or to find creative ways to work around their regulations, I don't know? Commissioner Sewell, what part of the public determining the direction to go. I would suggest somebody from the massage institutions and somebody from the gaming institutions, maybe?
- Commissioner Ponder, I agree with you on that.
- Administrator Wuest, Commissioner Clark, I just wanted to point out that NAC 394.523 Commission on Postsecondary Education Gaming and 394.526 Massage are our regulations.
- Commissioner Clark, I am not sure what you just said you quoted off some regs.
- Administrator Wuest, those regulations are part of the Commission's regulations they are not part of the gaming board or the massage board.
- Commissioner Clark, let me see if I understand what you just said. The regulations that are not allowing the gaming to be taught online and the massage to be taught online fall under the CPE regulations, is that correct?
- Administrator Wuest, that is correct.
- Commissioner Clark, so the purpose would be to go out to those board and find out if they have an appetite for us to change our own regulations for this emergency provision. Do we have a way to change those regs in regard to the emergency provisions?

- Deputy Attorney General Robert Whitney, we have seen different agencies act, with the Governors permission of course, do it through emergency regulation. There have been different agencies who have asked the Governor to suspend certain aspects of their regulations, so in this case and perhaps draft in something that just lasts for 90 days or other language keen to end at the emergency regulation time period. It is possible to suspend those portions of the NAC as Administrator Wuest mentioned in NAC 394.523 and 394.526 the online prohibition part of it and perhaps write in language that would permit online portions. Again, the language would have to be presented to the Governor and the Governor would have to agree with our attempts to pass emergency regulations. We could set a hearing specifically set for the Commission on Postsecondary Education to pass those. So those regulations along with a statement of emergency would have to be sent to the Governor and he would have to approve those. There would also have to be an informational statement is typically filed with the regulations in all circumstances. Once those are done and the regulation is filed the legislative commission and secretary of state then those regulations can become effective. There is still a process here, but it is shorter.
- Commissioner Clark, there has been a lot of discussion many minutes on this agenda item/ I am a little confused as to what the intent is and what are parameters are simply because the audio keeps breaking up every time someone tries to explain a piece of the puzzle. I am wondering if Administrator Wuest or Robert Whitney could type in the chat a recommended motion you would like to hear from us. That could get us to closure on this. We have spent a lot of time talking about this, a lot of what ifs. I just want to make sure whatever motion we make here is going to serve the intended purpose.
- Commissioner Dr. Kenny, I would also like some guidance as to what the motion would look like so we could do it properly it would be great. I think we should make a motion to create an emergency regulation for NAC 394.523 and NAC 394.526. Again, though I agree with Commissioner Clark, I would like some sort of clarification or guidance to ensure that we do that properly and that we check all the boxes as we make that motion. I would be willing to make that motion with the earlier parameters.
- Commissioner Clark, we have a motion on the table right now. I believe we have a second now we are in the discussion phase. I guess the first question is does that motion achieve what we are looking for, Administrator Wuest?
- Administrator Wuest, I didn't have a specific outcome. It was really about do we want to consider these things at the commission. I didn't have a sway in either direction. I think that may be where part of the confusion is at the time, we did this trying to figure out what direction do we go as a commission because I wasn't certain.
- Commissioner Clark, I am starting to think that forming a subcommittee may not be in our best interests because we don't have a lot of clarification as to what this subcommittee is going to do. Is it a matter of developing a subcommittee to develop what the subcommittee is going to do? Do we need to do that? I'm not convinced we need a subcommittee. If we are going to form a subcommittee, I think it was Mr. Sewell that made the motion, I like the way he formed that. I just don't understand what the purpose would be. Anybody else have any discussion that is on the table right now.
- Commissioner Sewell, well I think at this point in time we just form a subcommittee. Let them have a discussion offline and bring something back to the commission. Whether that be we don't need to do anything; or we need to look at changing 523; or 526? I think that

might lead us in the direction whether that be an emergency regulation because of the pandemic or the new normal because there is going to be lots of changes based on this.

- Commissioner Hersha, I agree. I think that we as a commission if we have prohibitive guidelines, we need to address that for these institutions. Additionally, if we are prohibiting them from delivering their service. So, we as a commission need to look at revising some of our language. I mean everybody in education knows we have been pushed to going virtual we need to be more forward thinking. The only thing I have a concern is we only meet every quarter, so what phase will we be in when we finally get back from the subcommittee and we are talking about old information again or we are passed that already.
- Deputy Attorney General Robert Whitney, Commissioner Hersha, a comment, any subcommittee and or commission can meet although we typically meet quarterly there is nothing prohibiting them to meet more often as long as the open meeting law requirements are followed which they are currently modified in the emergency regulation. There is nothing that prohibits either the subcommittee or the commission to meet more often than quarterly. Another item, Commissioner Sewell had mentioned, I just want to be careful as he mentioned offline. I do agree with Administrator Wuest that any subcommittee would be subject to the open meeting law. I am not sure if that is what he meant, but I wanted to be clear on that open meeting laws must be subject to open meeting laws when they met.
- Commissioner Clark, can someone review what the motion was? I am unsure about the two committee public members until the subcommittee meets. Bringing in the two committee members before we are sure which direction this subcommittee is going to take; it bothers me a little bit. How do you feel about that?
- Commissioner Frederick, I just had a question. Since we are in meeting right now can we have the commissioners assigned for the subcommittee, now?
- Commissioner Clark, do we want to reach out for volunteers, is that what we are saying? A show of hands who would like to be on the subcommittee. More than three?
- Deputy Attorney General Robert Whitney, I think the first motion could be made and clarified first then a second motion can be made for the members of the committee members to be appointed. That perhaps would be the best way to go.
- Commissioner Clark, any more discussion about the motion that is on the table to form the subcommittee? Then after that we can move into assigning committee members. Seeing no more discussion, I will call for a vote. All those in favor? Unanimous, motion carries.
- **MOTION: Commissioner Sewell, how about I move that we set up a committee to review current regulations dealing with the current pandemic issues made up of three members of the commission, two members of the public and appointed by the chair in consultation with the Administrator of CPE and we can leave it at that.**
- **SECOND: Commissioner Frederick, I will second the motion.**
- **All in favor: Unanimous, motion carries.**
- Commissioner Clark, now we have a subcommittee. I saw several hands go up as far as volunteers. We have decided that three commissioners will be on the committee. How do we decide who to put on that committee?
- Deputy Attorney General Robert Whitney, I was unable to see how commissioners volunteered to be on the subcommittee.

- Commissioner Clark, let's do it again. Who would like to be on the subcommittee? We have Commissioner Ponder, Commissioner Frederick and Commissioner Dr. Kenny; did I miss anybody? So, there is three right there. Do we need a motion as far as the members for the commissioners?
- Deputy Attorney General Robert Whitney, I would say yes, we do.
- Commissioner Clark, can I make the motion? **I make a motion that the subcommittee members from the commission, the three commissioners be Ms. Frederick, Mr. Ponder and Dr. Kenny.**
- **SECOND; Commissioner Hersha, I second that**
- **Discussion: none.**
- **All in favor: Unanimous, motion carries.**
- Commissioner Clark, public members, do we want to assign picking the public members to the subcommittee or do we want to assign those members now?
- Deputy Attorney General Robert Whitney, it might be best to have the subcommittee meet and find out who they feel would be best to be on the subcommittee and then come back with that information.
- Commissioner Clark, would we need a motion for that?
- Deputy Attorney General Robert Whitney, I would say no, not at this time.
- Commissioner Clark, then we will leave it up to the subcommittee to set up meeting dates through the Administrator. Please make sure they are in compliance with open meeting laws.

Applications for Full Term License

Aviation Institute of Maintenance

Testified: Lisa Nordman, Assistant Campus Director gave background on the institution, updated the commission pertaining to build out and delays indicating the program start is delayed until February 2021, and was available for questions.

Motion: Commissioner Hersha – A motion that the provisional license for Aviation Institute of Maintenance be extended for an additional twelve months.

Second: Commissioner Ponder.

Discussion: None.

Results: Unanimous, motion carries.

Community Ambulance Health Science Center

Testified: Gerry Julian, Academic Director gave background on himself as he is fairly new to the position, provided information on the institutions corrective actions and was available for questions.

Motion: Commissioner Frederick – A motion that the provisional licensure for Community Ambulance Health Science Center be extended for nine months.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, motion carries.

Laurus College

Testified: Jason Smith, Campus President, gave background pertaining to accreditation, the reason for the request, and was available for questions.

Motion: Commissioner Kenny – A motion that the provisional licensure for Laurus College be extended for six months.

Second: Commissioner Hersha.

Discussion: None.

Results: Unanimous, motion carries.

Rika Makeup Academy

Testified: Erika Rendon and Rafael Aguayo updated the commission on the institution and were available for questions. Administrator Wuest specified the three-month extension was due to the cancellation of the audit after the State suspended all staff travel.

Motion: Commissioner Kenny – A motion that the provisional licensure for Rika Makeup Academy be extended for three months.

Second: Commissioner Frederick.

Discussion: None.

Results: Unanimous, motion carries.

Montessori Training of Southern Nevada

Testified: None.

Motion: Commissioner Hersha – A motion that Montessori Training of Southern Nevada be granted a full-term license.

Second: Commissioner Frederick.

Discussion: None.

Results: Unanimous, motion carries.

Southeastern University

Testified: Lisa Barranco Murphy, Compliance Director updated the commission about the institution and expressed a desire to not have a provisional license extension rather to have a full-term license. Administrator Wuest, explained to the commission the extension was due to no enrollments for staff perform the required audit and therefore the institution is not eligible for a full-term license.

Motion: Commissioner Frederick – A motion that the provisional licensure for Southeastern be extended for nine months.

Second: Commissioner Sewell.

Discussion: None.

Results: Unanimous, motion carries.

Applications for Initial Provisional Licensure

Elite Professional Healthcare Training Academy

Testified: Emily Green, Owner/Academic Director/Instructor, gave her professional background and plans for the institution.

Motion: Commissioner Frederick – That a twelve-month provisional license be granted to Elite Professional Healthcare Training Academy to offer the Nursing Assistant program, contingent receipt of surety in the amount of \$29,000, personnel and facility information, academic administrator and curriculum approval from the Nevada State Board of Nursing.

Second: Commissioner Ponder.

Discussion: None.

Results: Unanimous, motion carries.

Signature Real Estate Institution, LLC

Testified: Joe Fitzpatrick, Nevada Director, gave information as to his professional background, and plans for the institution.

Motion: Commissioner Kenny – That a twelve-month provisional license be granted to Signature Real Institution, LLC. to offer the Real Estate Pre-licensing programs, contingent upon personnel information, facility, surety bond in the amount of \$10,000 and curriculum approval from the Nevada Real Estate Division.

Second: Commissioner Hersha.

Discussion: None.

Results: Unanimous, motion carries.

United Education Institute

Testified: Jim York, Campus President, Elvia Barba Compliance Specialist, and Angela Paul, Senior Director of Accreditation and Licensing; gave professional backgrounds, description of the programs the institution will offer, and plans for the institution.

Motion: Commissioner Frederick – That a twelve-month provisional license be granted to United Education Institute to offer the diploma programs in Automotive Technician; Business Office Administration; Criminal Justice; Dental Assistant; HVAC; Medical Assistant; Medical Billing and Insurance Coding and Welding, contingent upon receipt of surety bond in the amount of \$747,000, facility and personnel information.

Second: Commissioner Hersha.

Discussion: None.

Results: Unanimous, motion carries

Classes.Vegas

Testified: Daniel Kipnis, Institution Director, gave his professional background, expansion plans for the program and described the other programs his institution offers.

Motion: Commissioner Hersha – That be granted approval to offer the proposed Real Estate Pre-licensing course contingent on personnel information and curriculum approval by the Nevada Real Estate Division.
Second: Commissioner Kenny.
Discussion: None.
Results: Unanimous, motion carries

Public Comment

None.

Meeting Adjourned

The meeting was adjourned by Commissioner Clark. Time: 11:23a.m.

DRAFT