

**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 28, 2020; 8:00 A.M.

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

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

When: May 28, 2020 08:00 AM Pacific Time (US and Canada)

Register in advance for this meeting (including just prior to attendance and during meeting):

<https://zoom.us/meeting/register/tJwldOqtrjojHNPRrP1gAYldiBD5ZCd4l6D>

After registering, you will receive a confirmation email containing information about joining the meeting.

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

**Present during Video Conference**

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

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

**Present in Las Vegas**

Robert Whitney, Nevada Attorney General Office Deputy Attorney General  
Brenda Hoge  
Deborah Kotrady – REMSA  
Lisa Nordman, Aviation Institute of Maintenance  
James (Jim) E. York, United Education Institute  
Donna Pace  
Elizabeth Martinez – C21 Americana  
Heidi Callender  
Joshua Leavitt – Tech Impact  
Kelly Barren  
Laurette Mormon  
Linda Montgomery – The Learning Center  
Marcy Ceranek – Milan Institute  
Philip Tompkins  
Renee Coffman  
Robert Allen – Las Vegas College/Advanced Training Insitute

Robert Kidd – Perry Foundation Academy of Health  
Rolando Flores – Touro University  
Samuel Scheller – Guardian Elite  
Kristen Brown  
Dorinda Lanier

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

Sharon Frederick, Vice Chair  
Dr. Thomas Kenny  
Jon Ponder

DRAFT

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

May 28, 2020 – 8:00 A.M.

**Call to Order**

The meeting was held via Video Conference ZOOM. The meeting was called to order by Administrator Kelly Wuest at approximately 8:10 AM.

**Public Comments**

Administrator Wuest asked for public comment, no public comment.

**Written Comments**

This is Susan Beckett we do have written comments. Ms. Barbara Alcaraz, Director of Faculty Development for Northwest Career College.

My name is Barbara Alcaraz. I am currently serving as the Director of Faculty Development at Northwest Career College and have served as a former Program Chair for the Massage Therapy Program at the same institution.

- I am here this morning to urge this Commission to favorably consider allowing distance education for massage therapy programs in the State of Nevada. I implore your consideration to allow massage therapy via distance education so institutions like Northwest Career College, do not have to close their massage therapy programs, which could potentially have a detrimental effect on the industry in our state.
- At NCC, 11 of our 12 education programs have been permitted to provide distance education in light of the global pandemic and all 11 have been doing so with success.
- I believe that massage therapy can also successfully be taught in a distance education format. How could this be achieved?
  - Well, while in a remote online environment, such as Zoom, Instructors could teach theory and hands-on techniques via camera. Both instructors and students could be allowed to work on family members or others with whom they live in a shared residence - and who are willing to sign a consent form to serve as the receiver of an instructor's demonstration massage or a student's massage practice at home. The students' hands-on practice would be monitored remotely by an instructor.
  - Instructors and students would agree to adhere at all times to strict personal hygiene and sanitation guidelines before, during and after any massage, such as proper handwashing as recommended by the NV State Board of Therapeutic Massage. The use of hand sanitizer and required barriers between the student and their massage receiver such wearing masks at all times, the absolute avoidance any facial massage, proper handling of linens, and the proper disinfection of equipment.

- On May 19, the Federation of State Massage Therapy Boards, or FSMTB, released comprehensive guidelines for the practice of massage with COVID-19 considerations that include specific guidance for massage schools related to cleanliness, disinfection, disease prevention, and so on which could be adhered to by Nevada massage therapy educators.
- If allowed, the performance of students' final competencies could take place on campus with strict measures in place for admittance, staggered testing times, with physical distancing between instructors and the student performing competencies. I could go on,
- But in summation, I ask that regulations be set forth so that instructors can teach and students can learn safely and mitigate any spread of COVID-19. We need to find a solution so our massage therapy instructors can remain employed, and so our massage therapy students can achieve their dreams of helping others to improve their health, reduce pain and alleviate stress and anxiety through massage therapy- which everyone could benefit from once massage establishments are allowed to reopen in the State of Nevada. But when they do reopen, establishments will continue need employees and massage training institutions, like Northwest Career College, would like to fill that need with confident and competent massage therapy graduates.

With respect, I thank you for your time and consideration

**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 Frederick-Present
- Dr. Thomas Kenny - Present
- Commissioner Ponder-Present

Administrator Kelly Wuest took roll.

**Adoption of Agenda:**

Motion: Commissioner Frederick - Motion to adopt the agenda for May 28, 2020 Subcommittee Meeting.  
 Second: Commissioner Ponder.  
 Discussion: None.  
 Results: Unanimous, agenda is adopted.

### **Define primary focus of the subcommittee**

Administrator Wuest updated the participants:

At the May 6, 2020 Commission meeting, the Commissioner unanimously voted to establish the COVID 19 subcommittee to review current regulations dealing with the pandemic 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. At the meeting, there was extensive dialog about the charge of the subcommittee with the ultimate decision for the subcommittee to determine the focus.

The following items/goals were proposed in the dialog from the Commission meeting:

1. Assist institutions in transitioning between phases.
2. Protecting the students and the consumers and watching for institutions that are trying to gain the system by putting profits above the needs of the students.
3. Evaluate current regulations related to distance education.
4. Consider emergency or temporary changes to regulation due to COVID-19.

Administrator Wuest updated the committee will provide guidance and make suggestions for proposals for the upcoming meeting in August. However, if there was something the subcommittee believed required immediate action, we could have a special meeting (within one week) prior to the regularly scheduled August meeting dealing with that specific issue or plan.

Commissioner Kenny suggested we give out information pertaining to transitioning between phases.

Commissioner Frederick asked about the licensing boards for massage therapy and gaming. Perhaps we could piggy-back off their requirements. Do we have access to any of those board decisions also?

Administrator Wuest replied, they are public meetings, so we have access to those. One of the things we recommended to the gaming schools is to limit to three people per table: a dealer and three other students. It would be similar as what you would experience in a gaming setting. Massage has had a meeting and dealt with changes to their NRS, but they did not deal specifically with education.

Lisa Nordam updated she has been receiving information directly from the FAA pertaining to the COVID 19 pandemic. Ms. Nordam also offered to sit on the subcommittee as a member of the public. She furthered offering guidance and how she has been working with her accrediting body using a blended approach offering the academia portion to be distance education and providing the practical training in person.

Jim York offered to be a part of the subcommittee and furthered with his concern to for the subcommittee would be about assisting institutions in transitioning between phases. Mr. York explained some of the options his school is considering for online transitioning. His concern is there are many institutions at risk, not just massage and gaming. We need to work together to come up with solutions and options while the students may not be inside the classrooms.

Additionally, we need to ensure the schools are kept informed. We may even need to look at some legislative changes. This issue is going to go well into next year.

Commissioner Ponder reminded everyone we need to also consider we are also in compliance with the Governor's Directive moving forward, whatever that may be.

Commissioner Frederick stated she agrees with Mr. York, that this will continue for quite some time.

Commissioner Dr. Kenny clarified the reason there were specific industries that were called out were there are specific statutes that prohibit online instruction for schools in those industries. The commissions hands are regulatorily tied without any flexibility.

Commissioner Frederick, is Robert Whitney available to answer this question? What exactly is involved in changing NAC during an emergency?

This is Robert Whitney, there are still several steps that would need to be taken if the emergency regulation is changed. One of the things to keep in mind is the Governor Sisolak is going to have to endorse the situation and draft a statement of emergency and could borrow that from some of the other state agencies pertaining to emergency regulations. We would have to create language for the emergency regulation and those are both going to have to be submitted to the governor's office and he is going to have to endorse those. Maybe communication with the Governor's Liaison to see if there is any appetite for changing these regulations might be a good start. The Commission will have to consider what regulations it wants to change, the regulations that exist to create the emergency regulations. I assume you are talking about NAC 394.523 and 526. (inaudible) will have to be filed with the Secretary of State Legislative Council. It does go through the steps that a normal regulation would go through. We still need to do for filing and impact statement just a shortened version of the impact statement, those two still need to be done and filed with the emergency declaration and the emergency language. Once that happens, we also need to keep in mind the emergency declarations are only effective for 120 days and they can only pass once. It is shorter/abbreviated, but they are only good for a four-month period of time.

Commissioner Dr. Kenny, would there be a pathway for us to pursue? I know that some of these regulations were created there was not much opportunity for web-conferencing, the technology was just not there. Obviously, for massage therapy the options were limited. The regulations for a temporary and obviously also on a permanent basis.

Robert Whitney, I do not think there would be anything from prohibiting the commission from doing both. I can confirm and get back to you, I will run it through my supervisor. I think we would have to get the timing right so the emergency regulation would not expire. Additional discussion pertaining the statutes, timing; temporary and permanent for regulations.

Administrator Kelly Wuest reviewed the primary focus will be:

1. Look at the distance education requirements, which is on our agenda today.
2. Assist institutions in transitioning between phases.
3. Ensuring we are following the Governor's Directive at all times.

Robert Allen offered insight that students are still requesting in person for the majority. However, the trend is moving towards hybrid learning. Maybe that is something we can assist students in moving forward to remote and hybrid during the transitions and phasing. He is seeing students are having challenges with technology. He is also interested in being part of the subcommittee.

Deborah Kotrady suggested assisting institutions with transitions in distance learning. Maybe offering a group that could make suggestions in keeping students engaged during long days of distance learning. Maybe stakeholders?

Administrator Wuest asked for a motion from the Commissioners.

Motion: Commissioner Kenny – Moved to establish the subcommittee goals as assisting institutions in transitioning between phases of the Governors Reopening Plan ensuring we are in alignment with that plan and to establish the additional goal reevaluating current regulations relating to distance education for postsecondary institutions in Nevada.

Second: Commissioner Ponder.

Discussion: James York we all need to work together regardless of the industry. An altogether all for one direction.

Results: Unanimous, motion carries.

### **Discussion of General Public Members**

Administrator Kelly Wuest reviewed the establishment of the subcommittee as established at the May Commission Meeting is required to have two members to represent the general public. Commission Chair Clark will be selecting the committee members after this meeting. There has been a list compiled and sent to the subcommittee commissioners.

Commissioner Dr. Kenny, I could not find the list.

Commissioner Frederick did have the list and offered to read through the list.

Susan Beckett stated she did not send the list out as she was under the impression the list was being updated due to this meeting transpiring.

Commissioner Dr. Kenny, would it be out of the ordinary in light of the established goals if we could request anyone wanting to be on the subcommittee to submit a list of what they would have to offer as being part of the committee. A short statement of why you want to be a part and what you would have to offer, 150 to 250 words. It could provide Chair Clark with the information needed to select the additional members.

Administrator Kelly Wuest, I don't think that is out of the ordinary and if each of the people interested in being part of the subcommittee could just add that I will put it in the packet for Chair Clark.

Commissioner Ponder, one of the things that I would like to see. Even though distance learning is not new to us, we are moving into a new direction with this as things are rapidly developing

with the quality of instruction, education to make sure we are making distance learning as effective as we possibly can. I think I would like to see someone who is in fact has experience in distance learning to make sure that the student is getting the same quality of education as if they were there in person. I would like to see someone who has in-depth experience in the distance learning process.

Commissioner Dr. Kenny expressed agreement with Commissioner Ponder.

Administrator Kelly Wuest summarized we will request information as what the potential member will have to offer and what their experience in distance education is.

Commissioner Frederick, concurred.

### **Review of Regulations Related to Distance Education**

Administrator Kelly Wuest gave background pertaining to distance education. Regulations related to distance education were initially introduced into the Commission on Postsecondary Education statues in 2000 with the addition of NAC 394.521. The regulation was established to provide guidelines to establish programs in the emerging modality and ensure quality of education received via distance education. Prior regulation dating back to 1975 referenced home study and correspondence specifically.

Ms. Wuest further explained restrictions and definitions pertaining to NRS 394.523 and NRS 394.526 which were both added in 2012. Commissioner Sewell is our LCB contact and would be the person that would assist with any statute or policy revisions. We do have until August to submit changes or requests for bills however both regulations are located in the NAC, which can be changed in any given year but may require a temporary and permanent approval.

Commissioner Dr. Kenny spoke about the possibility of approaching these working with accreditors or occupational boards and using the accreditation standards for distance education. This might be less cumbersome than working through legislative and utilize the definition of distance education through the accreditation standards. This could give the task to the organizations normally dealing with distance education regulations including quality education assurance. We care very much about the quality of the education we are making sure we maintain a high quality of a vocational experience for the students here in Nevada and tying it to accreditation standards.

Administrator Wuest stated all accrediting bodies do not always align. We need to take that into account in formulating changes.

Jim York discussed learning modalities and might want to consider these while trying to work towards our common goal.

Robert Allen gave information about the two separate institutions he is involved with. Each school has their own accrediting body and while they tend to follow each other the delivery and methodology of education is how we go about students learning in this blended hybrid environment.

Administrator Wuest furthered with the importance to review NAC 394.523 (2); The Commission will not approve a program of instruction in gaming that is to be delivered using distance education. In Commission records, it showed independent study at the time it was originally implemented. We have not been able to locate the minutes pertaining to this. We do not know the dialog surrounding the establishment of this regulation. It was updated in 2012 to include distance education. Additionally, for gaming there is another requirement limiting lecturing or classroom instruction to not more than 50 percent of the program.,

Commissioner Dr. Kenny expressed concerns about the idea between correspondence courses and independent study courses were an issue and the language was such that it included distance education. Maybe we could change the language to be that of we would not approve a program that was an independent study or a correspondence course. Regarding the 50 percent number, I would like more information before we take more action to that; such background and context.

Administrator Kelly Wuest, it was really for a background of that information. I really believe it was about best practice due to the required audition in gaming industry.

Commissioner Dr. Kenny, that makes a lot more sense. I can see that section two on both of these NAC 394.523 and NAC 394.526 both section 2 where it states will not approve a program of instruction in delivered using distance education. I would like to ask the other commissioners whether of not they feel they may want to change distance education to will not approve a program of instruction via correspondence or independent study. That could give institutions a lot of operating flexibility and use the technology that is available to us today or if we could use the commission will not approve an unaccredited program to be delivered using distance education. Maybe one of those could be very effective and not impacting the students.

Commissioner Frederick, I do like your comments about accreditation. I do have concern with testing integrity. Yet, I do feel some of these are very outdated especially with the new technology. For instance, Zoom an instructor could watch a student dealing. We have so many options, and these were based on testing integrity. Now with technology we have new options available to us. Both professions are very hands on; that is why this is in place. I agree with something during the emergency basis, but I would like to see something corrected for the long term.

Commissioner Ponder I would like to express concern pertaining to gaming. The ability to audition for the position will require hands on experience in person. I am not sure we can provide that during a distance education setting. The student is paying for this and we need to take that into account during this time. We need to make sure that when that student graduates and completes that course they are 100 percent ready to go.

Commissioner Dr. Kenny, thank you I got all that. It sounds like what I am hearing is the testing is a concern. We have started in January a 360-degree, the student must move the camera around the room and no other items are permitted, testing online proctoring to guarantee testing integrity. Again, though the independent study or the correspondence course method seems to be where we are worried and when they cannot be properly tested. Maybe we could include both or options

either if they are an accredited program and following accreditation guidelines again and or not a correspondence or independent study program type.

Administrator Wuest, gave accreditation information pertaining to schools that are licensed in Nevada. Due to the statistics, it could make more sense to define things verses the accreditation. Regarding massage, I do have information pertaining to the practical regulations from the massage board and it cannot be done at home. It must be part of a clinical setting. We would have to work with the massage board on that. We have permitted the distance education in massage for the science portions and not massage courses.

Marcy Ceranek pertaining to massage, I wanted to point out that in the State of California they have temporarily permitted schools to go online for both theory and the practical portion of it. However, it is temporary. Maybe we could create something for an emergency, such as we are facing currently.

Deborah Kotrady we have clinicals in the hospital setting as well. Maybe there is another option and that could be to use some of the high definition mannequins. I would be willing to share information offline if anyone is interested.

Administrator Kelly Wuest stated that she has been attending the massage board meetings and they do not appear to be very open to activity other than the format we have right now. We must work directly with the Massage Therapy Board to make any changes. They do share information with both Maricris Wu and myself both about the surrounding states and national level.

Commissioner Frederick, how many massage schools do we have currently?

Administrator Kelly Wuest, we currently have six schools.

Commissioner Dr. Kenny asked if we needed a formal motion.

Administrator Kelly Wuest explained I can work with Commissioner Sewell on a draft of the idea and we could potentially do an emergency provision on gaming section two. Pertaining to massage we would still have to work with the massage therapy board. We could have a motion to change the distance education processes to move forward and then we would have another meeting.

Motion: Commissioner Kenny – I move that we move forward that Administrator Wuest and Commissioner Sewell look at and draft proposed language relating to changes that would be permissible to NAC 394.523 in terms of temporarily excluding and /or permanently excluding section 2; and NAC 394.526 in terms of temporarily excluding and/or permanently excluding section 2 if permissible with the board of massage therapy recommendation.

Second: Commissioner Frederick.

Discussion: None.

Results: Unanimous, motion carries.

**Public Comment**

None.

**Meeting Adjourned**

The meeting was adjourned at 9:59 a.m.

DRAFT