

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, August 12, 2020; 9:00 A.M.

Time: Aug 12, 2020 09:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

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Meeting ID: 947 3986 6856

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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
James Ketter
Rosa Padilla
Gus Pena
Carmelina Ruiz – Covered 6
Rodney Ball
Maria Rizo
Michael Hagan - Strayer
Nayeli Escalante
Marilyn Lim-Carreon
Alexis Lodge
Burke Malin
Betty Casillas
Crystal Garland
Melvin Valentine
Michelle Valentine
Theodore Vanderlaan -Vice President, Gurnick Academy of Medical Arts
Bryce McNeely
Diana Rodriguez
Steve Watkins
Peter Gilkey
Jerame Ayers
Conrad Torres
Janet Blumen
Jason Ho, Gurnick Academy of Medical Arts
Jessica Williams
Rafael, Rika Makeup Academy
Erika Rendon, Rika Makeup Academy

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

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

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August 12, 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 9:02 AM.

Public Comments

Commissioner Clark asked for public comment, no public comment. Commissioner Clark furthered by explaining, raising hand, or using the raise hand button sign. Still no public comment. Meeting paused for recording issues. Commissioner Clark asked for public comment a second time and stated please use raise hand, still no public comment.

Written Comments

This is Susan Beckett; 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, 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 Chair Clark-Present
- Commissioner Vice-Chair Frederick-Present
- Commissioner Cantú - Present
- Commissioner Hersha-Present
- Dr. Thomas Kenny - Present
- Commissioner Ponder-Present
- Commissioner Sewell – Present
- Commissioner Hersha - Present

Administrator Kelly Wuest: took roll via video.

Adoption of Agenda:

Motion: Commissioner Cantú – Adoption of Agenda with items 1-7 & 9 to be as a consent Agenda.

Second: Commissioner Hersha.

Discussion: None.

Results: Unanimous, agenda is adopted.

Approval of Minutes May 6, 2020 Meeting

Motion: Commissioner Frederick – Motion to approve May 6, 2020 meeting minutes.
Second: Commissioner Ponder.
Discussion: None.
Results: Unanimous, motion carries.

Approval of Proposed 2021 Meeting Dates

Motion: Commissioner Dr. Kenny – Motion to approve the dates as presented for 2021.
Second: Commissioner Frederick.
Discussion: None.
Results: Unanimous, agenda is adopted.

Administrators Report

Administrator Kelly Wuest read the report from the submitted report in the packet, as follows:

COVID 19 Impacts

Impact on Office Operations: CPE moved on June 1, 2020 as DETR needed our current space to increase call center operations. The new office is located at 1860 E. Sahara, Las Vegas, NV. The office remains closed to the public. Staff continue to work via remote desktop enabling employees to telecommute and perform most agency functions. We have asked institutions to send any paperwork possible via email versus the mail whenever possible. I have been working out of the office 2 days a week to process mail, send out required notices and transcript requests that cannot be completed via email. While working remote has enabled us to move forward in our operations, we are finding that many processes take extra time to complete and are dependent on internet traffic or system access.

CPE has experienced issues with mail returns from the new office as well as the previous address. Currently, we have a hold on mail for the new location and pick up items directly from the post office. We are working with institutions individually concerning returned mail. This has impacted our quarterly reporting numbers as several institutions have reported the payment as returned.

I have been notified that travel restrictions may last through this budget year. This will impact investigations, provisional audits, facility review, compliance surveys, VA risk-based assessments and will eliminate unannounced audits until we are able to travel again. This will also have an impact on the VA agreement since the assigned compliance surveys and risk-based assessments determine whether the survey meets the requirements for being completed remotely. CPE must have prior approval from VA to do any survey remote. Staff is working on formal policies and procedures for remote audits and compliance surveys and will be requesting technology to aid in this process.

Institutional Licenses: Governor Sisolak's Declaration of Emergency Directive 009 (Revised) extended the license & permit issued by Boards/Commissions for a period of 90 days from the current expiration date, or 90 days from the date the state of emergency is terminated, whichever is later remains expires on 9/28/20. Institutions with renewals due are provided additional time to submit the application and institutions attempting to fulfill contingencies will be provided

additional time to complete. We have had several applicants reach out that they are unable to secure a facility, complete build out, receive approval from an occupational board or provide necessary documents due to shutdowns in Nevada and other states. Future agendas will note when the applicant was impacted by COVID 19. There is considerable lag time for documents from different municipalities.

The following processes are extended by the order:

- Licenses and Renewals
- Applicants with contingencies to fulfill
- Agent Permits
- Alcohol Beverage Awareness cards

Institutional Operations

CPE has received notice from several of the licensed colleges and universities that they will remain online or only offer lab/clinical activities in person for the fall semester. Most accrediting bodies have permitted the transition to online without significant delay or impediment through December 2020. For unaccredited NCD's, some have remained closed due to safety concerns, inability to secure practicum sites, or students be in opposition of in person learning. Other institutions have been able to hold in person training in small groups limiting the number of individuals on campus at any given time. Students have been given the option for a leave of absence if they are uncomfortable with returning to in person classes or decided they are not suited for distance education learning. Overall training in healthcare has been challenged due to clinical sites being closed or restricted to students in preceptorship and clinical placements along with restrictions and additional safety requirements of occupational boards.

The long-term impact on institutions will not be evident for some time. Historically, institutions experience an up surge in unemployed workers retooling but this is predicated on available training funds to subsidize the efforts. The CARES Act has provided funding for colleges and universities, the unaccredited NCD's are reliant of individual payments, WIOA or other work based assistant programs. Those institutions at greatest risk focus on hospitality and gaming which is likely slow to recover which will translate into lower enrollments and funding availability.

As the time of this report, two institutions have reported one student indicating testing positive for COVID 19 however the students did not provide evidence of a positive result. In both cases, the institution was closed for deep cleaning and students in the persons class were notified of potential exposure. Staff have received COVID 19 plans for the majority of institutions, and while it is not required by the Commission, the submission of such plans does document the efforts of Nevada institutions to protect students and employees.

COVID 19 Subcommittee

Mr. Jim York, United Education Institute and Marilyn Lim-Carreon with Unitek College were selected as institutional members of the COVID-19 Subcommittee. The sub-committed held a meeting on May 28, 2020 and discussed changes in NAC 394.523 and NAC 394.525 to permit distance education in the areas of gaming and massage therapy. Any changes in the area of

massage therapy would require approval with NBMT. Emergency changes would only be permitted for up to 120 days before a permanent change would be required. Gaming institutions were permitted to reopen in Phase I and massage therapy students were permitted to return to clinicals in Phase II. With the new State structure for moving forward, it is unclear how it will impact institutions.

Budget

At the special legislative session, CPE was able to have our base biennium budget stay intact. The funds allocated to computerize the agency has been eliminated, resulting in a reduction of \$352,000 over the next two years. The cooperative agreement for VA has increase by \$ \$14, 314 and runs from October 1, 2020 – September 30, 2021.

Closure Updates

Art Institute: As reported last quarter, DAG Robert Whitney filed a Position Statement with the US District Court Case No: 1:19-cv-000145 to inform the court that certain students may be owed a refund if the Department of Education paid Title IV funds in the institutions closure audit. Two of those individual’s debt occurred prior to the Receivership and outside the legal requirements to pay, two individuals may be due a refund based on payments make from the VA educational benefits programs and all other students initially identified were eliminated from consideration after the Receiver provided correspondence from DE that payments for the Winter 2019 quarter and forward will not be paid and student loans will not be processed.

In most cases, this left the students with a debt on the ledger. The Received has indicated in court filing that all student ledger debt will be eliminated. While the Nevada student indemnification statutes protect student attending at closure, it does not automatically protect students who graduated or dropped prior to closure.

Quarterly Report – UPDATE - 29 institutions still unreported, the total enrollment for the January 1, 2020 – March 31, 2020 quarter increased to 7,037 students. CPE has been contacted by institutions unable to provide a physical check until stay at home orders are lifted in various states.

Quarterly Report - With **66** institutions unreported, total enrollment for the April 1, 2020 quarter currently stands at 5,340 students. Revised numbers listed below

April – June 2020	April - June 2019	April - June 2018	April - June 2017	April - June 2017	April - June 2016
6,052	6,988	7,449	7,292	5,814	5,340

CPE Quarterly Activities – April 1, 2020 – June 30, 2020

CPE Activity	Number of Applications Processed	CPE Activity	Number of Applications Processed

License Renewals	5	Agent Permits	8
Distance Ed Approvals	42	VA Compliance Visits/Other Visits	1
Change of Ownerships	0	VA Program Approvals	260
Distance Education Exemptions	5	SARA Notifications	1
License Evaluations	15	Institution Audits	3
Added Programs	7	Transcript Requests	64

CPE Student Complaints: April 1, 2020 – June 30, 2020

Institution Name	Date Filed	Issues/Allegations	Findings	Status
Northwest Career College	2/14/20	Student was withdrawn from institution by administration, wanted institution to guarantee a pass of the MCLEX exam	Documents show student requested withdraw at 1/21/20 meeting, student would have been administratively withdrawn otherwise based on catalog. Refund calculated was accurate.	Closed. Student claim was not substantiated.
Art Institute	1/30/19	Failure to pay stipend Incorrect processing of VA Inadequate staffing	Student identified in Court Doc owing refund.	Closed – CPE received confirmation that FA would not process FA. Receiver eliminated all debt on student file.
Art Institute	Email 7/2/19	Failure to Refund	Institution failed to process Yellow Ribbon. Required evidence of student payment \$2,032 for outstanding Pell, proof of Yellow Ribbon applied on student account. Student identified in Court Doc owing refund.	Closed – CPE received confirmation that FA would not process FA. Receiver eliminated all debt on student file.

Art Institute	5/13/19	Incorrect billing and VA processing	Certified request for transcripts and attendance sent 10/17.	CPE Hearing
Art Institute	5/2/19	Incorrect VA processing Not receiving stipend	Student identified in Court Doc owing refund.	Closed – CPE received confirmation that FA would not process FA. Receiver eliminated all debt on student file.
Art Institute	1/30/19	Failure to pay stipend Incorrect processing of VA Inadequate staffing	Student identified in Court Doc owing refund.	Closed – CPE received confirmation that DE would not process FA. Receiver eliminated all debt on student file.
Art Institute	2/4/19 and 5/13/19	Failure to Refund	Institution violated Nevada refund policy NRS 394.449. Student refunded. Payment to the VA in the amount of \$4,664 not verified.	Payment to VA verified
Art Institute	Informal	Communication concerning financial aid and payments	Closed –	Closed –
Art Institute	7/16/19	Quality of Education Failing to provide information about accreditation Financial Aid	Institution provided a fraudulent enrollment contract misrepresenting the institution as regionally accredited and part of Argosy University.	Commission hearing for student refund
Art Institute	6/3/19	Quality of Education		Open

Art Institute	6/15/19	Quality of Education Institution unable to answer questions about FA		Open
Art Institute	7/2/19	Failure to release stipend	Institution violated Nevada refund policy NRS 394.449. Payment to the VA in the amount of \$4,664 not verified.	Closed. FA will not pay out and ledger balance eliminated by Receiver.
Art Institute	10/7/19	Quality of Education Lack of equipment & up to date software. Poor and dismissive communication by staff		Closed. Individual graduated and not eligible for student indemnification
Art Institute	12/11/19	Failed to pay financial aid	Identified in court filing to receive refund	Closed. FA will not pay out & ledger balance eliminated by Receiver. Student eligible for indemnification

Applications for Full Term License

Below are the institutions that are covered under the consent agenda

Covered 6

The provisional license for Covered 6 be extended for an additional nine-months.

Las Vegas Institute of Welding

The provisional license for Las Vegas Institute of Welding be extended for an additional three-months.

Live Savers Training Center, LLC

The provisional license for Live Savers Training Center, LLC be extended for an additional nine-months.

Reno Dental Assistant Institution

The provisional license for Reno Dental Assistant Institution be extended for an additional nine-months.

Reno Medical Assistant Institution

The provisional license for Reno Medical Assistant Institution be extended for an additional nine-months.

Rika Makeup Academy

The provisional license for Rika Makeup Academy be extended for three-months.

SW Compliance

The provisional license for SW Compliance be extended for three-months.

Unitek College

The provisional license for Unitek College be extended for six-months.

Motion: Commissioner Dr. Kenny – A motion that items 1 – 7 and 9 as a consent agenda.
Second: Commissioner Frederick.
Discussion: None.
Results: Unanimous, motion carries.

Total Physicians Resources TPR PSVTS

Testified: Rosa Padilla RN, attempted to speak. However, due to the connection issues Ms. Padilla she had left the meeting.
Motion: Commissioner Frederick – A motion that the full-term licensure be granted.
Second: Commissioner Cantu.
Discussion: None.
Results: Unanimous, motion carries.

Applications for Initial Provisional Licensure

Academy for Professional Development

Testified: Jerame Ayers, Owner provided background of the institution and California location.

Commissioner Clark – asked about number of hours in the program for EMT. Mr. Ayers gave information on his plans and why the number of hours is increased.

Commissioner Ponder – asked about job placements and military. Mr. Ayers gave information about his experience and the success in his California location. Finally, he stated he will get students to the interview, but they will need to get themselves the position.

Commissioner Frederick – asked about the marketing plan pertaining to advertising. Mr. Ayers explained he is self-taught marketing person and it seems to work for his institution.

Commissioner Sewell – gave information about ESD Workforce Services and suggested to reach out on the business side. Commissioner Sewell reminded Nevada does require a local director. Mr. Ayers stated he does believe in hiring local talent and will be hiring locally.

Motion: Commissioner Frederick – That a twelve-month provisional license be granted to Academy for Professional Development to offer the Emergency Medical

Technician; Executive Protection Specialist and Physical Security Specialist programs, contingent receipt of surety bond in the amount of \$30,000, facility, personnel information and curriculum approvals.

Second: Commissioner Ponder.

Discussion: None.

Results: Unanimous, motion carries.

Choice Business Academy

Testified: Melvin Valentine Jr. and Michelle Valentine gave a background of the institution.

Commissioner Clark – What I am hearing is that you are really focusing on the soft skills. Mr. Valentine, yes, we are currently seeing this as is issue even in the current students of the CCSD as I am a high institution teacher. Clark furthered, where are you going to be getting your students and then how are you going to assist them in finding work? Mr. Valentine, we are confident in our current word of mouth campaign that has people already produced interest due to my work at the high institution and City of North Las Vegas. Right now, our focus is the urban core, community partners and social media. As far as employment, we are looking at call centers which we are looking at options with them. There is a huge need for people to be able to transition from working from home and in an office setting as well.

Commissioner Frederick – I see you are the institution director and an instructor. Are you still going to continue teaching at Mojave? Mr. Valentine, yes, the institution will be after the institution hours of my teaching position.

Motion: Commissioner Ponder – That a twelve-month provisional license be granted to Choice Business Academy to offer the Business Communication program, contingent upon receipt of surety in the amount of \$12,000 and personnel information.

Second: Commissioner Hersha.

Discussion: None.

Results: Unanimous, motion carries

Gurnick Academy of Medical Arts

Testified: Theodore Vanderlaan, gave a background of the institution and the programs at the institutions across the United States.

Commissioner Clark – What is the physical presence in Nevada? Mr. Vanderlaan, it depends on the requirements of Nevada. We are prepared to have a physical presence.

Motion: Commissioner Dr. Kenny – That a twelve-month provisional license be granted to Gurnick Academy of Medical Arts to offer Associate of Science in Magnetic Resonance Imaging program contingent upon receipt of surety bond in the amount of \$123,000 facility and personnel information.

Second: Commissioner Cantu.

Discussion: None.

Results: Unanimous, motion carries

Strayer University

Testified: Michael Hagan, Office of the General Counsel gave a brief background of the institution.

Commissioner Clark – Do you have a facility? Mr. Hagan explained the search during Covid 19 and how they will have a facility, but it will be mostly online. We are looking at both Reno and Las Vegas but anticipate the Reno location being completed first.

Motion: Commissioner Dr. Kenny – That a twelve-month provisional license be granted to Strayer University, to offer the diploma, associate, bachelor, masters and graduate certificates as indicated on the application, contingent upon facility information, staffing and surety in the amount of \$366,000.

Second: Commissioner Frederick.

Discussion: None.

Results: Unanimous, motion carries

Applicants for consideration of Added Program

Standards of Excellence

Testified: Janet Blumen gave a background of the institution. John Gonzales, Findley Automotive Group explained the program and idea to expand to postsecondary. Currently Findley works with local high institutions and wanted to have an opportunity to have the program expand to a postsecondary level. Conrad Torres provided an update and explained his position at the institution.

Commissioner Clark – my first question is about the 640-auto tech program, does it include the shop time? It seems a bit short. Mr. Gonzales, this is the basics of express lube packet. Commissioner Clark, who is certifying, it states certified automotive technician? Mr. Gonzales, the manufacturer via ASD.

Commissioner Frederick – I noticed that tool kit was listed in the materials. Is that student supplied, or institution supplied. Ms. Blumen that the tool kit will be supplied by the institution during training and the students will receive the kit upon graduation. If they do not graduate, then the tools stay at the institution and given to the next student.

Commissioner Hersha – Are exam fees included? Mr. Torres, yes, exam fees are all included in the tuition.

Commissioner Ponder – At the completion of the training, what is the anticipated starting salary? Mr. Gonzales, our technicians are flat rate technicians and usually start out at about \$16-\$18. Its piecework and our standard guys are making about \$35,000 a year.

Motion: Commissioner Ponder – That Standards of Excellence be granted approval to offer the proposed Automotive course contingent on surety bond increase of \$8,700, personnel information, facility information and curriculum approval.
Second: Commissioner Hersha.
Discussion: None.
Results: Unanimous, motion carries.

Students for consideration of Refund

Art Institute

Administrator Wuest gave background on the two student complaints requiring a final determination by the Commission concerning potential refunds. Both complaints are outside the scope of the Receivership of Dream Center Education Holdings, LLC, the owner of the Art Institute of Las Vegas due to the time frame of the occurrences prior to January 18, 2019. Surety Bond for \$100,000 for the Art Institute of Las Vegas was in effect at the time of the violations of NRS 394 and NAC 394 occurred. Our first student Richard Breckow he is a student who used his VA benefits, DE Title IV which were paid. Based on CPE's refund calculations he would be entitled to a total refund of \$2,006.22 paid by the surety bond from his withdraw. This was never paid by the institution. Byron Mays is student number two, a very different issue. This is an issue concerning accreditation and the Art Institutions misrepresentation that they were accredited by WASC as part of Argosy University in the student enrollment contract. CPE has found two individuals with such contracts, but the other impacted student only received DE Title IV funds. I provided both contracts to DE for consideration of Borrowers Defense. Depending on the amount the commissioners decide to grant this student there would be most of it covered by the surety bond. However, a portion would come out of the student indemnification fund. I have included two findings of fact, conclusions of law, and orders one for each student which I will go back to the surety company and obtain the refunds for the students.

Commissioner Clark – Typically, a student cannot get a full refund and then a keep the credits on their transcripts. Administrator Wuest, typically when a closure happens, they would still retain the transcripts. Commissioner Clark, were they ever a part of Argosy? Administrator Wuest, they applied to DE and were denied so they tried to place AI under Argosy, but it never happened.

Commissioner Clark – Are we looking for two motions or one motion to cover both of these? Deputy Attorney General, Robert Whitney responded I think for the sake of clarity two separate motions would be best.

Motion: Commissioner Frederick – I will make a motion that Richard Breckow be awarded \$2,006.22.
Second: Commissioner Cantu.
Discussion: Commissioner Clark, did that motion cover what you need Ms. Wuest? Administrator Wuest, I think it needs to be amended to add pursue surety. I need

to be able to go after the surety bond. Commissioner Clark, do you have any suggestions on the wording? Kelly Wuest, if you could add to file a claim with the surety.

Amended Motion: Commissioner Frederick – I will amend my motion that Richard Breckow be awarded \$2,006.22 to be filed with the surety company.

Second: Commissioner Cantu.

Results: Unanimous, motion carries.

Motion: Commissioner Cantu – I will make a motion that Byron Mays be refunded the full amount of tuition on behalf of the student to demonstrate actions of misrepresentation by licensed institutions is a serious breach of confidence and will not be tolerated as per the recommendation of the Administrator \$25,351.67 going against surety.

Second: Commissioner Frederick.

Discussion: None.

Results: Unanimous, motion carries.

Administrator Wuest, I will send you the finalized copies for signature.

Public Comment

Commissioner Clark – I would like to ask if there was a meeting of the Subcommittee? Administrator Wuest, I think we called it the Covid-19 Subcommittee. We discussed changing NAC to reflect the things if we did an emergency declaration it would expire in 120 days. We are looks at the longer-term fix, at rewriting some of it. When it came to the area of massage, we would have to get the consensus of the massage board which I have not been able to do so yet. They would have to agree changing things to online. They were okay with anatomy, physiology they were okay. When it came to massage, they were opposed to allowing that online. Commissioner Clark, I can understand that. Administrator Wuest and it had to be supervised. Commissioner Clark, are there future meetings? Administrator Wuest, we do not have one, but we will have one soon. Commissioner Clark, keep me updated I am out of my busy season.

Meeting Adjourned

Commissioner Dr. Kenny made a motion to adjourn the meeting.

Commissioner Frederick gave the second.

The meeting was adjourned by Commissioner Clark. Time: 10:50a.m.

Attached are written comment of people who were not aware they could make a comment in the meeting.