

DRAFT MINUTES
STATE OF NEVADA
EMPLOYMENT SECURITY DIVISION
COMMISSION ON POSTSECONDARY EDUCATION

NEVADA COMMISSION ON POSTSECONDARY EDUCATION MINUTES

Topic: Commission on Postsecondary Education
Time: February 9, 2022, 09:00 AM Pacific Time (US and Canada)

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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

Todd Weiss, Nevada Attorney General Office, Deputy Attorney General
Venus Fajota
Carol Galbraith, Sonder C N A Training
Abby Walker
Angie LeBlanc, Accelerated Dental Assisting Academy
Dora Valentin, Adult Care Connections
Andrew Rozell, iTeachNevada
Brian Treu, Phlebotomy Training Specialist
Jacqueline Villeda, Coaching Pros
Dr. Kimberly Thaggard, iTeachNevada
Emily Jenks
Haley Hutchison
Haylee Stephens, Arch Dental Assisting Academy
Heidi Callender
Jessica Ford
Molly Rose Lewis – US Senator Rosen’s Office
Monica Sanborn, Phlebotomy Training Specialist
Mishaux Ramirez, Accelerated Dental Assisting Academy
Ryan Rauzon
Christian Jones, US Senator Rosen’s Office

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

Nate Clark, Chair
Sharon Frederick, Vice Chair
Thomas Kenny
Joseph Rhoades
Steven Soares

STATE OF NEVADA
EMPLOYMENT SECURITY DIVISION
COMMISSION ON POSTSECONDARY EDUCATION
MINUTES

February 9, 2022 – 9:00 A.M.

Call to Order

The meeting was held via Video Conference ZOOM. The meeting was called to order by Chair Commissioner Nate Clark at approximately 9:02 AM.

Public Comments

Commissioner Clark asked for public comment – Molly Rose Lewis from U.S. Senator Rosen office introduced herself and is in attendance, gave information and her contact information is mollyrose_lewis@rosen.senate.gov; 775-560-1824 she covers the 13 of 17 Northern Nevada Counties out of the Reno office.

Written Comments

This is Susan Beckett, no written comments.

Confirmation of Posting

Susan Beckett, for the record, Administrative Assistant III, Employment Security Division, Commission on Postsecondary Education. Yes, proper Notice and Posting were completed for this Meeting. The meeting will be held via videoconference only.

Roll Call

- Commissioner Chair Clark - Present
- Commissioner Vice-Chair Frederick - Present
- Commissioner Eade - Excused
- Commissioner Kenny - Present
- Commissioner Ponder - Absent
- Commissioner Rhodes - Present
- Commissioner Sewell – Excused
- Commissioner Soares - Present

Administrator Kelly Wuest: took roll via verbal and video. Confirmation of a quorum.

Adoption of Agenda:

Motion: Commissioner Rhodes – Move to approve adoption of Agenda for February 9, 2021.

Second: Commissioner Soares.

Discussion: None.

Results: Unanimous, agenda is adopted.

Approval of Minutes November 3, 2021, Meeting

Discussion: Susan Beckett updated an error on the minutes submitted. Under Roll Call, Commissioner Clark was listed as excused. He was present he was present at the meeting.

Motion: Commissioner Rhodes – Motion to amend the submitted minutes for November 3, 2021, meeting to include Commissioner Clark as present.

Second: Commissioner Kenny.

Discussion: None.

Results: Unanimous, motion carries.

Motion: Commissioner Rhodes – Motion to approve the amended meeting minutes.

Second: Commissioner Soares.

Discussion: None.

Results: Unanimous, motion carries.

Administrators Report

Administrator Kelly Wuest read the submitted Administrators Report (as submitted in the Public Packet Posting) with the following updates:

Commissioner Clark asked Administrator Wuest about the Morrison University website, he could not find anything that they are located in Nevada. Administrator Wuest stated they may have removed it as we have been addressing student inquires as we receive them.

Quarterly reporting update: 40 outstanding institutions still need to report our current report is up to 7,851. Quarter three increased another 2,000 students after our last meeting, we are expecting our current numbers to increase for quarter four.

Commissioner Frederick, in the past, you have been able to utilize interns to assist you in the office, is that something that is still viable? Administrator Wuest replied, there is a program called Skill Bridge the State of Nevada is exploring whether to participate in it. I did request participation and completed the survey sent out. The participants would be a Veteran that would be transitioning out of military service. The other interns CPE had been from a program ran from DETR that are young students with disabilities. That program works really well in processing our backlog of transcripts from the closed institutions.

Applications for Full Term License

Adult Care Connections

Testified: Dora Valentin, attended the meeting. There were issues with their microphone and given the option to speak via the chat if there were questions.

Motion: Commissioner Frederick – A motion that Adult Care Connections be granted full term licensure.

Second: Commissioner Soares.

Discussion: None.
Results: Unanimous, motion carries.

Arch Dental Assisting Academy

Testified: Haylee Stephens gave background and information for Arch Dental Assisting Academy.

Commissioner Clark asked about the programs original plan to open in Reno and now it has moved to Vegas. Haylee Stephens responded the program was relocated to Las Vegas. Commissioner Soares asked about curriculum content for sonic cleaning versus manual. Ms. Stephens indicated they cover both types. Commissioner Soares asked about enrollment growth? Ms. Stephens responded that the enroll has started to increase. Commissioner Soares ask about externship? Ms. Stephens stated the program requires a 40-hour externship for all students.

Motion: Commissioner Soares – A motion for a full-term license be granted to Arch Dental Assistant Academy.
Second: Commissioner Rhodes.
Discussion: None.
Results: Unanimous, motion carries.

Coaching Pros for Personal Injury Academy

Testified: Jacqueline Villeda testified and gave background.

Commissioner Rhodes asked about Jacqueline Villeda experience, and she explained that she is involved in litigation but is not a paralegal but a case manager with specialization in pre-litigation stages of the claim. Commissioner Rhodes asked about the current audit students and employment. Ms. Villeda explained the process of the program while students are often working in the field, the training will enable the student to promote.

Motion: Commissioner Frederick – A motion for a full-term license be granted Coaching Pros for Personal Injury Academy.
Second: Commissioner Kenny.
Discussion: None.
Results: Unanimous, motion carries.

iTeachNevada

Testified: Dr. Kimberly Thaggard, gave a background and update on the program.

Commissioner Clark requested information about how you plan to address CPE's areas of concern. Kimberly Thaggard, yes, and I want to commend Maricris for the amazing work she has done as well as Susan meeting with us to ensure we are

in compliance. I think the answer really to this is the exponential growth that has taken place. I am sure you are very familiar with the Nevada teacher pipeline; we have seen a rapid amount of growth since we applied back in March. A lot of the missing documentation was in regard to our employees that we have had to bring on in result of that growth. We seem to be having issues with the 40b and 40c compliance with HR. Commissioner Clark, I see that one of the areas was where there were some citations from Texas regulations and then about the Nevada operation. Do you have someone on board who is familiar with the Nevada regulations? Kimberly Thaggard, that would be me, I was hired last March. We are a nationwide company again; the problem of a teacher pipeline is not only significant in Nevada it is a nationwide problem. It appears to be an oversight and legitimately a typo.

Commissioner Frederick, will you be actively seeking student veterans? Kimberly Thaggard, certainly, I actually have a meeting with Grace Ann, and she is working with myself and public ed foundations Pathways Commission. We are working very closely to try to get as many veterans in the classroom as possible. Commissioner Frederick, thank you for your testimony regarding our Nevada Revised Statutes. That was very upsetting to me. I felt that you were completely ignoring our requirements here in Nevada. I am very pleased to hear your explanation because originally, I was not in favor of the nine-month extension. I did not think you were being serious about this being iTeachNevada and not iTeachTexas. When I read the report and saw how many meetings this has taken for you when this should have been a slam dunk for you. We see other applicants appear before us with much less historical knowledge and education. It just seems like they don't have the issues. I chaired the meeting for your provisional license, and I was hopeful.

Commissioner Soares asked Administrator Wuest, how was the nine-month period determined? Administrator Wuest responded that six months would be too short of a period since the institution has still not corrected documents including the enrollment agreement. From our experience, we would require the recommended nine-months to ensure compliance. The reference to Texas related regulations will require updating for enrolled students and in reality, the time frame is seven months when you consider the timing of the audit to prepare for the Commission meeting. We will be conducting the next audit in person.

- Motion: Commissioner Rhodes – Motion that the iTeachNevada provisional license be granted for an additional nine-month period.
- Second: Commissioner Frederick.
- Discussion:
- Results: Unanimous, motion carries.

Phlebotomy Training Specialists, LLC

Testified: Brian Treu, gave background and update for the institution.

Commissioner Kenny, how many draws do students do when they train with you? Brian Treu, 100 they have to do 100. Commissioner Clark, are your phlebotomists becoming certified through a phlebotomy certifying agency? Brian Treu, yes NHA.

Motion: Commissioner Frederick – Motion to grant full term license for Phlebotomy Training Specialists, LLC.

Second: Commissioner Soares.

Discussion: None.

Results: Unanimous, motion carries.

Sonder CNA Training

Testified: Carol Galbraith provided a background of the school and program. She also thanked Maricris Wu for her assistance.

Motion: Commissioner Soares – Motion to grant full term license for Sonder CNA Training.

Second: Commissioner Rhodes.

Discussion: None.

Results: Unanimous, motion carries.

Applications for Initial Provisional Licensure

Accelerated Dental Assisting Academy

Testified: Mishaux Ramirez, gave background and information about the proposed institution and why Dr. Jarrad Bencaz decided to start a school. Additionally, thanked Maricris Wu for her support and assistance. Mishaux Ramirez, gave a very detailed report on the program. Mishaux Ramirez, asked a question pertaining to Commissioner Soares question earlier today, she quoted the law and then asked about scaling teeth for further clarification. Commissioner Clark and Commissioner Soares responded with you are correct an assistant does not scale or sonic clean teeth in the State of Nevada.

Motion: Commissioner Frederick – That a twelve-month provisional license be granted to Accelerated Dental Assisting Academy to offer the Dental Assisting Certificate program contingent upon receipt of surety bond in the amount of \$22,000, facility approval, personnel information, and curriculum approval.

Second: Commissioner Rhodes.

Discussion: None.

Results: Unanimous, motion carries.

NAC Changes

Changes to NAC 441A Concerning Immunization Requirements

Testified: Administrator Wuest gave background information and reviewed the information submitted in the public packet. Commissioner Clark requested possible next steps.

Administrator Wuest state the Commission could send a letter to the Board of Health requesting participation in any revision of NAC 441A or it could be sent by staff which would not require a vote. The regulation directly impacts the constituents of the commission and would require Commission staff to enforce. As written, it will have a financial impact on the schools to collect and maintain health record in addition to CPE staff time.

Commissioner Clark requested if anyone would like to motion to authorize that letter.

Commissioner Rhodes commented on the exchange of the word University and postsecondary institution in the regulation and how this changed the scope of who was required to abide by the regulation.

Commissioner Soares commented on the vagueness concerning the referenced computerization of records and reference to COVID 19 immunity which does not exist.

Deputy Attorney General Todd Weiss was asked if the Commission could have subcommittees to address such issues. DAG Weiss indicated that whether a subcommittee needs to be part of the Open Meeting Law or not is very fact specific to exactly what the subcommittee is doing, what it's purposes, who is on it. He would help the Commission set up something if interested.

Commissioner Clark discussed whether a motion was needed to proceed, and Administrator Wuest indicated that if the request was coming from the Commission a motion would need to occur but if from staff it would not require a vote.

Motion: Thomas Kenny, to authorize a letter from the commission to the agencies involved that we request that we would be involved in future discussions about any, rules, regulations and so forth that involve requirements for vaccinations by students in the state of Nevada, or higher education students' postsecondary education students in the state of Nevada.

Second: Commissioner Soares.

Any discussion: Commissioner Frederick asked if motion could be very generic, and just make it specific to NAC, instead of, being specific for vaccinations. Discussion occurred on who would get the letter if generic, the broad impact of such a request and past occurrences specific to this regulation.

Commissioner Clark amended to make it more generic and seconded by Commissioner Kenny.

Amended motion:

Motion: Commissioner Frederick - A letter from the Commission to the agencies involved that we request that we would be involved in future discussions about any, rules, regulations and so forth that involve changes in NAC requirements for students in

the state of Nevada, or higher education students, postsecondary education students in the state of Nevada.

Second: Commissioner Kenny.

Discussion: None.

Results: Unanimous, motion carries.

Changes to NAC 394 Concerning Financial Stability

Testified: Administrator Wuest reported on the 10-year review of the NAC to determine if any regulations need to be updated or clarified. She noted changes required related to the passage of AB 169 in the past session that will need to occur. Any changes, requires a workshop and a small business impact for the changes as part of the LCB process.

Administrator Wuest presentation included an overview of NRS 394.445 stating institutions must be financially sound and capable, fulfilling its commitments to the students. The NAC provides a description of the financial statements content and specifying the financial statement an either audited or reviewed but the regulation does not indicate any characteristics or indicators of financial soundness. She noted a typo in the material in reference to NRS 394.460 identifying the financial statement of an institution is confidential. In formulating the requirement, the Commission should define the financial documents required to be part of the financial statement.

Approximately 75% of licenses are non-accredited vocational programs with many being small business owners. The current requirement for initial licensing requires startup companies to acquire a reviewed financial statement for a business that has yet to operate. These businesses have expresses having to pay more than the licensing fee and upwards of \$10,000 to meet the requirement. From the perspective of agency staff, the CPA reviewed financial statement provides little insight or indication of whether the applicant is financially stable. There are better ways to get to the data reducing the cost for our small business owners like submission of tax or banking records. Staff has also observed a significant different in submission times of an additional six to twelve months versus the accredited institution who apply in less than three months. Accredited applicants already prepare a CPA audited financial report for both the accrediting body as well as U.S. Department of Education (DE) so the current requirement does not pose a financial impact or challenge to the accredited applicants. For these applicants, defining financial soundness is the critical issue.

Commissioner Clark indicated there has been a lot of discussion about the same topic nationally. The US Department of Education has what they call the composite score. DE uses three different areas of the financial statement to come up with scores on liquidity, scores on cash reserves, as well as profitability. Each area is weighted, and they give you a composite score. If you're within 1.5 to 3.0 you are financially sound. If fall between 1.1 to 1.5 they call that zone and subject to height monitoring. If its below 1.0 now you've got a supply a letter of credit. I look at our own rules and we have similar instrument to the letter of credit, but we asked new schools to provide surety, which protects our students, where the US Department of Education requires a letter of credit after the fact, after a school starts losing money or losing assets and running out of resources. So, I almost like the system where we require surety. I question the way we calculate

the surety amounts and I also question those methods that we use to release the surety. Because we don't have a financial test to determine.

Commissioner Soares stated that having worked at DE he has history with this. Strictly speaking of degree granting institutions, the auditor's letter must give an opinion if they are following government auditing standards. There is a federal audit Clearinghouse where you can pull down the audit for the year it is not listed in the letter a form will be attached to it. I think the opinion is a crucial item we need to see. For the composite score, there is discussion replacing it with something else. That type of change is likely to take five to ten years to occur. There are other avenues to see the financial health of the organization that have been proposed. Looking at the number of degree granting institutions that failed over the past few years, students lost out. Commission Soares discussed a situation where a student from the Corinthians college continued paid on loans for several years not knowing about debt relief. The loan servicer did not disclose that she may be eligible for debt relief. Those are the kinds of things that I think we should be concerned with making sure that we've got the right information. I would like to share those strategies.

Commissioner Kenny stated that he is glad that we're talking about this, I think this is important. The current system of surety makes sense for brand new schools that don't actually have established financials. For accredited institutions which go through all of this process must be in operation for a period of time before they can seek accreditation which means that this really is the gateway for any of those schools to ever become an accredited institution. They have to start off not accredited, operate with a pathway that doesn't involve the business already existing that's obviously still a productive system. There may be more relevant data later when they are operating. For accredited institutions, it makes sense to have them submit audited financial statements because they already have them.

I have served on our Accreditation Commission on the Financial Review subcommittee there and that was are tasked with managing financial soundness for schools and they look at audited financial statements, but they're also looking at a few key financial indicators. Identifying what those indicators would be some examples include current ratio of current liabilities to assets, liabilities, having meet a certain minimum threshold once they have a history of operating. Many institutions may lose money for the first year or two before they start making money or having positive equity in the business. With regards to institutions not in compliance, is there a process of improving versus withdrawing a license. Build out a financial improvement plan and then monitor for a year to see if an improvement occurs. We could choose a high value metrics but that would become more work for staff. Trying to figure out how to simplify it might be an incredibly important part to making that realistic. We need to look at group financials and not just local financials. In the case of Brightwood's closure, the local campus was healthy but the system shutdown forcing the local closure. I think accreditation looks at the system and the local which provided more indications of trouble since system issues can impact local operations. Possibly build a bifurcated pathway, whether it be based on a certain amount of annual revenue where if the threshold is 250,000 in revenue, we would not need to see audited financial statements, but we need an accountant to sign off on your statements. For business above the threshold, the Commission would expect you to have the financial resources to get audited.

If an institution has big enough annual revenue, then they are impacting a lot of students requiring they are held to that higher threshold of responsibility.

Commissioner Clark, agreed with Commissioner Kenny. The collection of that financial information, I think, is the easy piece to solve. We can easily write regulations requiring if you have audited financials, we need to see if you don't have audited financials when we asked for that almost suggest we look to the banks for that answer what do they ask for when they apply for a small business loan, which would be personal balance sheets and so forth. We can kind of align with that maybe we need to have a committee or subcommittee form to go over what do we do with the information once we gather it the make those important decisions.

Brian Treu, Phlebotomy Training spoke on other states where his institution is licensed where some used surety and others required audited financial statements.

Commissioner Soares stated the Century Foundation does a lot of work on metrics for financial analysis. They talk about an annual enrollment changes enrollment year one, divided by enrollment Year Zero minus one. A simple calculation. That's one of a few items that they have. For the surety bond, if the institution goes into receivership, it would be difficult to collect the surety bond. I believe we should be involved in looking at what is in the NAC right now and proposing ideas for change. I do like the bifurcated pass path, what is asked from non-degree granting as opposed to accredited institution should be two different things. It should be clear what we want. There are a number of things we can look at debts, cash on hand, reserve categories over just cash on hand; unrestricted cash and marketable securities over total expense, not including non-cash. Expenses over 365 so the calculations are pretty simple and something that non-degree granting institution should be able to do. Commissioner Soares – I would like to propose that we do the same.

Motion: Commissioner Soares – Establish a subcommittee, look at the NAC in its current version, and look at ways to make changes to it that would be relevant to degree granting and non-degree granting institutions.

Second: Commissioner Kenny.

Any further discussion. Commissioner Kenny asked about formulation of a subcommittee and whether there would be formal meeting or be able to flesh out examples, discussions because this is pretty technical. We may need to bring in outside people who present other ideas and are experts in this area as some of us have some experience but don't do this work every day. If we do something about this massive change for most of the schools and will require a really strong system for monitoring so it doesn't become overly burdensome and overwhelming.

Commissioner Clark requested guidance from DAG Weiss before we take this motion and vote on this motion. Deputy Attorney General Todd Weiss advised to hold off on making an official vote on forming a subcommittee right now to we can ensure the subcommittee will be compliant with the Open Meeting Law. Maybe a motion that there is interest into forming the subcommittee.

Commissioner Clark, yeah, we've done a subcommittee before we didn't violate the meeting laws. Maybe amending the motion to indicate the interest in forming, so that we have the time to do it. At the same time, like to see this thing move. Deputy Attorney General Todd Weiss understood Chair Clark, I'll get something and work with Susan and Kelly.

Commissioner Soares stated that he is keeping a close eye on what's happening at the US Department of Education, to hopefully bring back any information to the commission. Commissioner Clark, some SBA regulations and whenever we do get around to form the subcommittee, I think we ought to have some, somebody from the banking industry possibly past Commissioner North or receive a recommendation for a banking representative.

Discussion occurred about the time frame and bringing the discussion of a sub-committee back in May or possibly hold a special meeting. DAG Weiss to research about the formation of the subcommittee.

Commissioner Clark took a vote on the motion on the floor.

Results: Unanimous, motion fails.

Public Comment

None.

The meeting was adjourned by Commissioner Clark. Time: 11:50 a.m.