

LCB FILE NO. R166-09

PROPOSED REGULATION OF THE COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS

EXPLANATION: Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: NRS 116.615(1)-(5)

Section 1. Chapter 116 of NAC is hereby amended by adding thereto the provisions set forth as sections two, three and four of this regulation.

Standards for Continuing Education courses

Sec. 2. *NAC 116 Standards for courses. (NRS 116.620)*

1. A course for continuing education must contain:

(a) Current information on ~~[community]~~ management of a common-interest community or condominium hotel that will improve the professional knowledge of the member and enable him to give better service to the public.

(b) Information that relates to pertinent Nevada laws and regulations.

2. The Commission considers courses in the following areas to be acceptable for continuing education:

(a) Ethics of ~~[community]~~ management of a common-interest community or condominium hotel;

(b) Legislative issues which concern the practice of ~~[community]~~ management of a common-interest community or condominium hotel and practitioners, including pending and recent legislation;

(c) The administration of ~~[community]~~ management of a common-interest community or condominium hotel law and regulations, including licensing and enforcement;

(d) Reserve studies;

(e) Insurance and risk management issues pertaining to common-interest communities and condominium hotels;

(f) The administration of ~~community~~ management of a common-interest community or a condominium hotel office, including personnel issues and the handling of records and information;

(g) Accounting, including, without limitation, the preparation and monitoring of budgets, expenditures and reserves and the use of financial statements;

(h) Inspections relating to maintenance, planning and enforcement of governing documents;

(i) Federal laws affecting Fair Housing, accessibility and other issues pertinent to community management;

(j) Health and safety;

(k) Declarant and developer issues;

(l) Regulations that affect the common-interest community or condominium hotel, including zoning, planning and local codes;

(m) The disclosure of required information in ~~real estate~~ common-interest community or condominium hotel transactions;

(n) Parliamentary procedures;

(o) Interpersonal communications

(p) Contracts, including the preparation of RFPs and obtaining bids; ~~and~~

(q) Liens, collections and other enforcement remedies; and

(r) Supervision of a responsible supervising community manager. (note: Supervision of a provisional community association manager by a supervising community manager.

3. If the sponsor agrees to comply with the provisions of subsections 3 and 4 of NAC 116.234, NAC 116.241 and 116.247 and subsection 1 of NAC 116.274, the Administrator may accept the following courses as meeting standards for continuing education without application or specific approval:

(a) Any course in ~~community~~ the management of a common-interest community, condominium hotel, or a directly related subject if the course is offered by an accredited university or community college for college credit.

4. The following kinds of courses and activities do not meet the standards for continuing education:

(a) A course designed to prepare students for examination.

(b) A course designed to develop or improve clerical, office or business skills that are not related to the activities described in NRS 116.023, such as typing, shorthand, the operation of business machines, the use of computers, the use of computer software, speed-reading, the improvement of memory, and writing letters and reports.

(c) A meeting for the promotion of sales, a program of office training, or other activity which is held as part of the general business of the licensee.

(d) A course for the orientation of licensees, such as a course offered for that purpose through local real estate boards or industry groups.

(e) A course for the development of instructors.

5. The Commission will not approve more than:

(a) Seven full hours of credit per day of instruction in a course for continuing education if a final examination is not given; or

(b) Eight full hours of credit per day of instruction in a course for continuing education if a final examination is given.

GENERAL PROVISIONS

Sec. 3. *NAC 116 “Audit committee member” defined. (NRS 116.615) “Audit committee member” means a person approved by the Commission for the purpose of auditing education classes approved by the Commission or funded by the Commission.*

EDUCATION AUDIT COMMITTEE

Sec. 4. *NAC 116 Establishment; appointment, rights and duties of audit committee members. (NRS 116.615)*

1. The Commission may establish a panel of members to serve on an audit committee to assist the Division with the review of courses approved by the Commission or courses funded by the Commission to determine whether courses can be funded by the Commission.

2. *An audit report may be used to determine whether an approved or funded course is meeting the requirements for approval or funding of the course.*
3. *The Commission will create and maintain a list of persons who are approved by the Commission to serve on an audit committee. A person approved to serve on an audit committee must meet the qualifications for appointment.*
4. *A current or former member of the Commission is automatically eligible to serve as a member on the audit committee.*
5. *Qualifications for appointment to serve as a member of the audit committee shall include:*
 - a. *Must be a resident of this State.*
 - b. *Must have resided in a common-interest community or condominium hotel for not less than 3 years immediately preceding the date of his appointment or must have been actively engaged in a business or profession related to common-interest communities or condominium hotels for not less than three years immediately preceding, the date of his appointment.*
 - c. *Must have professional experience or executive board experience and knowledge in requirements of board members, the laws governing common-interest communities or condominium hotels, or the preparation of financial reports and/or reserve studies.*
 - d. *Must have a reputation for honesty, trustworthiness and integrity.*
 - e. *Must not have been disciplined by this Commission or any other disciplinary action imposed by the Real Estate Division within the immediately preceding five years.*
6. *A member of an audit committee:*
 - a. *Serves at the pleasure of the Commission and without compensation;*
 - b. *Shall abstain from participating in any proceeding in which he would be prohibited from participating if he were a member of the Commission; and*
 - c. *Each member of an audit committee is entitled to receive a per diem allowance and travel expenses as provided for state officers and employees generally for the period during which the member was engaged in the discharge of his duties as an audit committee member.*

Sec. 5. NAC 116.160 is hereby amended to read as follows:

NAC 116.160 Renewal of certificate. (NRS 116.615, 116A.200, 116A.410)

1. A certificate must be renewed biennially.
2. Except as otherwise provided by subsection 5, the Division shall renew a certificate if the applicant submits to the Division before the expiration of his certificate:
 - (a) A completed application on a form prescribed by the Division;
 - (b) The statement described in NRS 116A.440;
 - (c) The fee required by NAC 116.505 for renewal; and
 - (d) Documentation of the successful completion by the applicant of at least 18 hours of continuing education in courses approved by the Commission within the 2 years immediately preceding the date on which the certificate expires. At least 3 hours of the continuing education must consist of instruction relating to this chapter and chapter 116 of NRS ~~§~~ *with an emphasis on recent regulatory and statutory changes.*
3. The renewal of a certificate is effective on the date on which the renewal is issued.
4. If the holder of a certificate fails to complete the required hours of continuing education or fails to file an application for the renewal of his certificate before it expires, he may not engage in the management of a common-interest community until his certificate is reinstated.
5. The Division may refuse to renew a certificate if:
 - (a) The applicant has been convicted of, or entered a plea of guilty or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude;
 - (b) The applicant fails to complete, sign and submit the statement required pursuant to NRS 116A.440;
 - (c) The Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional certificates and permits issued to the applicant; or
 - (d) The applicant has engaged in conduct which is grounds for disciplinary action pursuant to NAC 116.360 and has been disciplined by the Division or Commission.
6. If the Division, after an application to renew a certificate in proper form has been filed, accompanied by the proper fees, refuses to renew the certificate, it shall give notice of this fact to

the applicant within 15 days after the ruling, order or decision. The applicant may file a written request for a hearing before the Commission pursuant to the procedures set forth in NAC 116.150.

7. If the Division refuses to renew a certificate because it receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional certificates and permits issued to the applicant, the Division shall reinstate the certificate if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 6. NAC 116.274 is hereby amended to read as follows:

NAC 116.274 Courses: Responsibilities of sponsor; renewal of approval; review and audit; grounds for withdrawing or refusing to renew approval; discipline of sponsor. (NRS 116.615, 116.665)

1. The sponsor of an approved course:

(a) Shall not allow a holder of a certificate to pass the course by taking an examination without having the required attendance;

(b) Shall admit authorized personnel of the Division to audit and evaluate the presentation of the course;

(c) Shall notify the Division within 15 days after making any material change in the course; and

(d) Shall not present a course for the main purpose of selling products or services and shall limit the announcement of products or services during the course to not more than 2 minutes.

(e) Shall notify the Division of any classroom approved course offering at least 15 days in advance.

2. The sponsor must apply for renewal on a form provided by the Division and describe on that form any changes in the course. An application for renewal must be filed at least 2 weeks before the previous approval expires. If the sponsor does not timely file the application for renewal, the sponsor must apply for an original approval.

3. Each approved course and instructor is subject to review and audit by the Division. If the Division conducts such a review or audit, the sponsor shall make available to the Division all

records requested which are necessary to the review. *The Division may arrange for the review and audit of an approved course by an approved auditor or Division staff. Audits may be announced or unannounced.*

~~[4.—The Division shall renew the approval of a course if the information concerning the course has been updated and there is no material change in the content of the course.]~~

~~[5.]~~ 4. Each of the following acts and conditions is a ground for the Commission to withdraw or refuse to renew its approval of a course:

(a) The curriculum or instruction, as shown by evaluations or audits, is of poor quality.

(b) The violation of any provision of this chapter relating to continuing education.

(c) The course is not taught within the last period for which the course is approved.

(d) The sponsor of the course has made a false statement or has presented any false information in connection with an application for the approval of the course, the renewal of such approval or the approval of the sponsor.

(e) The sponsor of the course or any official or instructor employed by the sponsor has refused or failed to comply with any provision of this chapter or chapter 116 of NRS.

(f) The sponsor of the course or any official or instructor employed by the sponsor has provided false or incorrect information in connection with any report the sponsor is required to submit to the Commission.

(g) The sponsor of the course has engaged in a pattern of consistently cancelling scheduled courses.

(h) The sponsor of the course has remitted to the ~~[Commission]~~ *Division* in payment for required fees a check which was dishonored by a bank.

(i) An instructor employed by the sponsor of an approved course fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in this chapter.

(j) A court of competent jurisdiction has found the sponsor of the approved course or any official or instructor employed by the sponsor to have violated, in connection with the offering of education courses, any applicable federal or state law or regulation:

(1) Prohibiting discrimination on the basis of disability;

(2) Requiring places of public accommodation to be in compliance with prescribed standards relating to accessibility; or

(3) Requiring that courses related to certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(k) The sponsor of the course or any official or instructor employed by the sponsor has been disciplined by the Commission or any other occupational certification agency in this State or any other jurisdiction.

(l) The sponsor of the course or any official or instructor employed by the sponsor has collected money for an educational course but has refused or failed to provide the promised instruction.

~~[6.]~~ 5. A holder of a certificate who is the sponsor of an approved course is subject to disciplinary action pursuant to the provisions of this chapter for any dishonest, fraudulent or improper conduct by the holder of a certificate, or an instructor of the approved course employed by the holder of a certificate, in connection with activities related to the approved course.

~~[7.]~~ 6. As used in this section, “disability” means:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

Sec. 7. NAC 116.284 is hereby amended to read as follows:

NAC 116.284 Evaluation of course and instructor by students. (NRS 116.615, 116.665)

1. Each approved course and each instructor of an approved course must be evaluated by students on a form prescribed by the Division and provided by the sponsor during every course offering.

2. The sponsor shall ~~[~~:

~~—(a) Arrange for the collection of the completed evaluations by a person other than the instructor of the approved course; and~~

~~—(b)]~~ Mail or deliver copies of the completed evaluations to the Division within 10 working days after the last day of class for the course.