

LCB File No. R123-06

PROPOSED REGULATION OF THE REAL ESTATE COMMISSION

(This regulation was split out from LCB File No. R019-06;
these sections have been removed from that regulation for separate consideration.)

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

AUTHORITY: §§1-3, 14 and 24-26, NRS 645.190; §§4-13, NRS 645.863; §§15, 21 and 22;
NRS 645.050; §§16 and 17, NRS 645.190 and 645.345; §§18-20, NRS 645.575;
§23, NRS 645.190, 645.633 and 645.660.

A REGULATION relating to real estate; establishing procedures for the issuance of permits to engage in business as a business broker; allowing a person licensed as a real estate broker to act as the broker of a brokerage after the death of the person who was acting as the broker of that brokerage; requiring schools applying to offer courses in real estate to submit a statement indicating that, to pass a course, a student must obtain a certain minimum score; establishing the procedures for an appeal of a decision of the Division to deny approval to a person applying to be an instructor; revising the provisions governing which licensees must obtain postlicensing education and continuing education; revising the provisions concerning the persons to whom a licensee must make certain disclosures; revising the requirements for the transfer of a deposit on any transaction engaged in on behalf of a broker or owner-developer to the appropriate person; establishing fines for the violation of certain statutes and regulations; providing that the presiding officer at a hearing has the discretion to limit opening and closing statements; revising the standard for granting a continuance for a hearing before the Commission; requiring a broker to attend the disciplinary hearing of a salesman or broker-salesman with whom the broker is associated; and providing other matters properly relating thereto.

Section 1. Chapter 645 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *“Sign” means to affix a signature to a record.*

Sec. 3. *“Signature” means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present*

intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

Sec. 4. *As used in sections 4 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 5. *“Applicant” means a licensee who is applying for a permit.*

Sec. 6. *“Business broker” has the meaning ascribed to it in NRS 645.0075.*

Sec. 7. *“License” means a license as a real estate broker, real estate broker-salesman or real estate salesman.*

Sec. 8. *“Permit” means a permit to engage in business as a business broker.*

Sec. 9. *As used in chapter 645 of NRS, the Commission will interpret the term “engage in business as a business broker” to mean engaging in the business of:*

1. Selling, exchanging, optioning or purchasing;

2. Negotiating or offering, attempting or agreeing to negotiate the sale, exchange, option or purchase of; or

3. Listing or soliciting prospective purchasers of,

↳ the tangible assets and goodwill of an existing enterprise, if the sale or purchase of the tangible assets and goodwill of the enterprise requires the seller and purchaser to file with the Internal Revenue Service a Form 8594, Asset Acquisition Statement, or its equivalent or successor form.

Sec. 10. 1. *A licensee who wishes to obtain a permit must:*

(a) Submit to the Division:

(1) A completed application on a form prescribed by the Division;

- (2) A fee of \$40;*
 - (3) A fee of \$75 for the examination required by paragraph (b); and*
 - (4) A certificate of completion, in a form satisfactory to the Division, indicating that the applicant has successfully completed the 24 hours of classroom instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863; and*
 - (b) Pass an examination which is prepared and administered by an organization designated by the Division, with a score of at least 75 percent. The examination must:*
 - (1) Include the subject matter presented in the hours of classroom instruction required pursuant to subsection 2; and*
 - (2) Consist of at least 50 multiple-choice questions.*
- 2. The 24 hours of classroom instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863 must include, without limitation:*
- (a) Eight hours of instruction relating to financial statements, including, without limitation:*
 - (1) Income statements, balance sheets and cash flow statements;*
 - (2) Reformatting and recasting income statements and balance sheets; and*
 - (3) Terms and concepts used in financial statements;*
 - (b) Six hours of instruction relating to the valuation of a business, including, without limitation:*
 - (1) Business value and alternative purchase offers;*
 - (2) Cash equivalent value;*
 - (3) Business purchase price and seller carry-back notes;*
 - (4) Investment value and fair market value;*

- (5) Determining the value of goodwill;*
 - (6) The significance of a business's assets in creating market value;*
 - (7) The market value of a franchised business; and*
 - (8) The rules of thumb of business valuation;*
- (c) Six hours of instruction relating to purchase offer and sale considerations, including, without limitation:*
- (1) Structuring the transaction;*
 - (2) Describing the business;*
 - (3) Asset sales and stock sales;*
 - (4) Describing the tangible assets being acquired;*
 - (5) Describing the goodwill being acquired;*
 - (6) Including real property in the transaction;*
 - (7) Describing the assets included in the purchase;*
 - (8) Describing the assets excluded from the purchase;*
 - (9) Cash on hand;*
 - (10) Method and terms of payment;*
 - (11) Assumption by the buyer of liabilities of the seller;*
 - (12) Notification of creditors of the seller;*
 - (13) Method for the calculation of the purchase price of a business when the buyer of the business assumes the liabilities of the seller;*
 - (14) Adjustments at the close of escrow to the liabilities of the seller assumed by the buyer; and*
 - (15) Summarizing the structure of the transaction; and*

(d) Four hours of instruction relating to business brokerage and professional practices, including, without limitation:

- (1) Business opportunity contracts, agreements and disclosure forms;*
- (2) Marketing, preparing a business for sale and advertising a business for sale;*
- (3) Understanding the significance of the “potential” of a business;*
- (4) Offering prospectus and confidentiality agreement;*
- (5) Issues of business brokerage compensation;*
- (6) Purchase offer and acceptance forms used for business opportunities; and*
- (7) Business broker and business appraiser associations.*

3. The Division may accept a course in business brokerage from a nationally recognized or accredited organization to fulfill the educational requirements set forth in subsection 2 if the successful completion of that course would qualify the applicant to engage in business as a business broker pursuant to the requirements of that organization.

4. Each applicant must pay a fee determined by the Division for the costs of an investigation of the applicant’s background.

5. Each applicant must, as part of his application and at his own expense:

(a) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant’s fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant’s background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by other means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

6. The Division may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 5, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

Sec. 11. 1. *A permit expires on the same date as the license of the holder of the permit expires.*

2. The Division may renew a permit if the holder of the permit submits to the Division:

(a) A request for the renewal of the permit with the application to renew his license;

(b) A renewal fee of \$40; and

(c) Documentation indicating that the holder of the permit has successfully completed the continuing education required by paragraph (a) of subsection 4 of NRS 645.863.

Sec. 12. *The renewal of a permit is effective on the date on which the applicant submits to the Division an application to renew his license or the applicant pays the renewal fees for the license and the permit, whichever occurs later.*

Sec. 13. 1. *For an applicant to receive credit for a course of instruction in business brokerage that is designed to fulfill the educational requirements for the issuance or renewal of a permit, the Commission must approve the course.*

2. An educational institution that wishes to obtain the approval of the Commission to offer courses that meet the educational requirements for the issuance or renewal of a permit must apply to the Division pursuant to the procedures set forth in NAC 645.400 to 645.467, inclusive.

Sec. 14. NAC 645.005 is hereby amended to read as follows:

645.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 645.007 to 645.055, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 15. NAC 645.350 is hereby amended to read as follows:

645.350 1. If the license of a real estate broker is involuntarily inactivated, suspended or revoked, he shall deliver his license to the Division with the license of each licensee with whom he is associated. A licensee who is associated with the real estate broker may, upon proper application and payment of the required fee, transfer to the association of another real estate broker. No refund will be made when a license is involuntarily inactivated, suspended or revoked.

2. Upon the death of a licensee, the license held by that licensee automatically expires.

3. Upon the death of a person who was licensed as a real estate broker and who was acting as the broker of a brokerage, a person who is licensed as a real estate broker in the State of Nevada may submit to the Division an affidavit stating that he will act as the broker of that brokerage for not more than 60 days after the death of the person who was acting as the broker of the brokerage. Notice of such an appointment must be submitted to the Division, in writing, within 7 business days after the death of the person who was acting as the broker of the brokerage.

Sec. 16 NAC 645.403 is hereby amended to read as follows:

645.403 A school that wishes to offer courses to meet the educational requirements for licensure under chapter 645 of NRS must apply to the Commission annually for approval on a form prescribed by the Division and pay the appropriate fees. The application must include, without limitation:

1. The name and address of the school;
2. The type of school and a description of its facilities;
3. Information concerning the ownership of the school, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;
4. A list of the instructors;
5. A list of the courses to be offered and a topical syllabus for each;
6. The allotment of time for each subject;
7. A proposed schedule of courses for 1 year;
8. The titles, authors and publishers of all required textbooks;
9. A copy of each examination to be used and the correct answer for each question;

10. A statement of:

- (a) The purpose of the school;
- (b) The fees to be charged;
- (c) The days, times and locations of classes;
- (d) The number of quizzes and examinations;
- (e) The grading systems, including the methods of testing and standards of grading;
- (f) The requirements for attendance; and
- (g) The location of the students' records; ~~and~~

11. A statement as to whether the school or any instructor employed by the school has been disciplined by any governmental agency in this or any other state ~~and~~; *and*

12. A statement that to pass a course, a student must earn at least 75 percent of the points possible for the entire course.

Sec. 17. NAC 645.426 is hereby amended to read as follows:

645.426 1. An instructor must have written approval from the Division before teaching an approved course.

2. An applicant for approval as an instructor must apply on a form prescribed by the Division.

3. The Division shall not, without the approval of the Commission, approve a person as an instructor if the person:

(a) Has been disciplined by the Commission or the Division acting on behalf of the

Commission:

- (1) Within the immediately preceding 5 years; or
- (2) More than one time; or

(b) Has been determined in an administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to real estate in this or any other state.

4. A person may be approved as an instructor to teach an approved course relating to his principal occupation if:

(a) He has:

(1) A bachelor's degree or a more advanced degree, plus at least 2 years of full-time experience, in the field in which he will be providing instruction;

(2) Teaching experience of at least 75 hours in the field in which he will be providing instruction within the 3 years immediately preceding the date of his application for approval plus at least 3 years of full-time experience in that field;

(3) At least 6 years of full-time experience in the field in which he will be providing instruction; or

(4) Any combination of at least 6 years of college-level course work and full-time experience in the field in which he will be providing instruction;

(b) He has a good reputation for honesty, integrity and trustworthiness; and

(c) He submits to the Division satisfactory documentation of his qualifications and a resume outlining his experience, education and teaching experience in the field in which he will be providing instruction.

5. *If the Division denies an application for approval as an instructor, the applicant may appeal the decision of the Division by filing an appeal with the Commission not later than 30 days after the date on which the applicant received notification of the denial of his application for approval as an instructor.*

6. If the applicant files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the denial of the application for approval as an instructor at a regularly scheduled meeting of the Commission and will:

(a) Affirm the decision of the Division to deny the application for approval as an instructor;

(b) Approve the instructor for a limited period and under such conditions as the Commission deems appropriate; or

(c) Reverse the decision of the Division to deny the application for approval as an instructor.

7. The Division shall periodically review and evaluate each approved instructor.

Sec. 18. NAC 645.4442 is hereby amended to read as follows:

645.4442 1. ~~[Each]~~ *Except as otherwise provided in subsection 2, each* first-year licensee shall take a prescribed postlicensing course of education that focuses on practical applications of real estate transactions. The postlicensing course:

(a) Must not repeat the content of the course work required to meet the educational requirements for an original license;

(b) Must constitute the 30 hours of education required pursuant to NRS 645.575;

(c) Must be offered in modules; and

(d) Must be provided through live instruction in which the licensee and the instructor are in the same room, except that first-year licensees who live in a rural area may, with the prior written approval of the Division, take the postlicensing course as an interactive or televideo course that involves interaction with the instructor and other students.

2. *The requirement for postlicensing education set forth in subsection 1 does not apply to a first-year licensee who:*

(a) Holds a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the first-year licensee obtains a real estate license issued by the State of Nevada;

(b) Held a license as a real estate broker, real estate broker-salesman or real estate salesman issued by the State of Nevada within the 5 years immediately preceding the date on which the first-year licensee obtained a license as a real estate salesman; or

(c) Is licensed as a real estate broker-salesman and obtained the qualifications for licensure as a real estate broker-salesman pursuant to the provisions of subsection 4 of NRS 645.343.

3. The postlicensing course may include material that has not previously been approved or allowed for continuing education credit. Courses approved for postlicensing education will not be accepted or approved as a course for continuing education.

~~3.~~ 4. The curriculum for postlicensing education must contain at least 15 modules that include, without limitation:

(a) Real estate contracts, including the writing and presenting of a purchase agreement and qualifying prospects;

(b) The listing process, market analysis and inspections;

(c) Communication, technology and records management, including time management, goal setting and devising a plan of action;

(d) Buyer representation, including the buyer's brokerage contract, fiduciary duties, disclosures, cooperation between agents and new-home tracts;

(e) Professional conduct, etiquette and ethics;

(f) Advertising, including Regulation Z of the Truth in Lending Act of the Federal Trade Commission issued by the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 226, fair housing, the multiple-listing service, Internet websites and electronic mail;

(g) Proceeds of sale, costs of sale and cost sheets;

(h) Agency relationships;

(i) Land;

(j) Regulatory disclosures, including disclosures required by federal, state and local governments;

(k) Property management and the management of common-interest communities;

(l) Escrow, title and closing processes;

(m) Financing;

(n) Negotiation; and

(o) Tax opportunities and liabilities related to the client.

Sec. 19. NAC 645.448 is hereby amended to read as follows:

645.448 1. Except as otherwise provided in subsection 3, a real estate salesman who wishes to renew his license must complete at least 24 hours of continuing education at approved educational courses, seminars or conferences during the license period for the license. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(a) Three hours in the area of agency relationships;

(b) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;

- (c) Three hours in the area of contracts; and
- (d) Three hours in the area of ethics.

2. Except as otherwise provided in subsection 3, a real estate broker or real estate broker-salesman who wishes to renew his license must complete at least 24 hours of continuing education at approved educational courses, seminars or conferences during the license period for the license. Not less than 15 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

- (a) Three hours in the area of agency relationships;
- (b) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;
- (c) Three hours in the area of contracts;
- (d) Three hours in the area of ethics; and
- (e) Three hours in the area of broker management.

3. The requirements for continuing education set forth in subsections 1 and 2 do not apply to the renewal of a license upon the expiration of the initial ~~[license period for the]~~ license.

4. If a license has been placed on inactive status and the licensee wishes to have the license reinstated, the licensee must comply with the following requirements:

(a) *If the license was on inactive status for 1 year or less, all of which was during the period of the initial license, the licensee must complete the 30-hour postlicensing course described in NAC 645.4442.*

(b) If the license was on inactive status for *more than 1 year but less than 2 years*, ~~[or less,]~~ any part of which was during the ~~[initial license period for]~~ *period of* the *initial* license, the licensee must complete at approved educational courses, seminars or conferences:

(1) The 30-hour postlicensing course described in NAC 645.4442; and

(2) At least 18 hours of continuing education. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(I) Three hours in the area of agency relationships;

(II) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;

(III) Three hours in the area of contracts; and

(IV) Three hours in the area of ethics.

~~{(b)}~~ (c) If the license was on inactive status for 2 years or less, no part of which was during the ~~{initial license period for}~~ *period of* the *initial* license, the licensee must complete at least 24 hours of continuing education at approved educational courses, seminars or conferences. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(1) Three hours in the area of agency relationships;

(2) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

(3) Three hours in the area of contracts; and

(4) Three hours in the area of ethics.

~~{(e)}~~ (d) If the license was on inactive status for more than 2 years, any part of which was during the ~~{initial license period for}~~ *period of* the *initial* license, the licensee must complete at approved educational courses, seminars or conferences:

(1) The 30-hour postlicensing course described in NAC 645.4442; and

(2) At least 24 hours of continuing education. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(I) Three hours in the area of agency relationships;

(II) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

(III) Three hours in the area of contracts; and

(IV) Three hours in the area of ethics.

~~[(d)]~~ (e) If the license was on inactive status for more than 2 years, no part of which was during the ~~initial license period,~~ *period of the initial license*, the licensee must complete at least 48 hours of continuing education at approved educational courses, seminars or conferences. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(1) Three hours in the area of agency relationships;

(2) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

(3) Three hours in the area of contracts; and

(4) Three hours in the area of ethics.

5. Not more than 3 hours of any of the required hours set forth in this section for continuing education may be taken in courses for personal development.

6. As used in this section, “initial license” means the license of a person who is a first-year licensee and who:

(a) Did not hold a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the first-year licensee obtained a real estate license issued by the State of Nevada;

(b) Had not held a license as a real estate broker, real estate broker-salesman or real estate salesman issued by the State of Nevada within the 5 years immediately preceding the date on which the first-year licensee obtained a license as a real estate salesman; or

(c) Is licensed as a real estate broker-salesman and obtained the qualifications for licensure as a real estate broker-salesman pursuant to the provisions of subsection 2 of NRS 645.343.

Sec. 20. NAC 645.467 is hereby amended to read as follows:

645.467 1. The Commission will grant credit for continuing education, not to exceed 6 hours during a licensing period, to a licensee for attending a meeting of the Commission if:

(a) The meeting of the Commission for which credit for continuing education is being sought is not a ~~[meeting]~~ *hearing* in which the licensee ~~[was participating in or otherwise affiliated with a specific disciplinary hearing;]~~ *is participating as the result of a disciplinary action;*

(b) The meeting of the Commission for which credit for continuing education is being sought lasts at least 3 hours; and

(c) The Commission certifies, for the purposes of providing credit for continuing education, the attendance of the licensee at the meeting.

2. If a licensee attends only part of a meeting of the Commission, the Division may determine the number of hours of credit, if any, that the licensee may receive for credit for continuing education pursuant to this section.

Sec. 21. NAC 645.637 is hereby amended to read as follows:

645.637 In each real estate transaction involving a licensee, as agent or principal, the licensee shall clearly disclose, in writing, to ~~the buyer and seller and the lessor and lessee,~~ *his client and to any party not represented by a licensee*, his relationship as the agent of ~~the buyer or the seller,~~ *his client* or his status as a principal. The disclosure must be made as soon as practicable, but not later than the date and time on which any written document is signed by the ~~buyer or seller, or both, or the lessor or lessee,~~ *client or any party not represented by a licensee*, or both. The prior disclosure must then be confirmed in a separate provision incorporated in or attached to that document and must be maintained by the real estate broker in his files relating to that transaction.

Sec. 22. NAC 645.657 is hereby amended to read as follows:

645.657 A licensee who receives a deposit on any transaction in which he is engaged on behalf of a broker or owner-developer shall pay over the deposit to that broker or owner-developer, or to the escrow business or company designated in the contract, within 1 business day after receiving ~~the deposit,~~ *a fully executed contract.*

Sec. 23. NAC 645.695 is hereby amended to read as follows:

645.695 1. The Administrator may require a licensee to pay an administrative fine in the amount set forth in this subsection for each violation of the following provisions:

	For each Offense
NRS 645.252.....	\$500
Subsection 4, 5 or 6 of NRS 645.310.....	1,000

	For each Offense
NRS 645.530.....	100 per license
NRS 645.550.....	500
NRS 645.560.....	500
Subsection 1 of NRS 645.570.....	250
Subsection 2 of NRS 645.570.....	500
Subsection 1 of NRS 645.580.....	250
Paragraph (a), (b), (c), (e), (f), (i), (j), (k) or (l) of subsection 1 of NRS 645.630.....	500
Paragraph (g) of subsection 1 of NRS 645.630	1,000
Paragraph (c), (e), (g), (h), (j), (k) or (l) of subsection 1 of NRS 645.633.....	500
Paragraph (a) or (f) of subsection 1 of NRS 645.633	250
Paragraph (i) of subsection 1 of NRS 645.633	1,000
Subsection 1, 2, 3, 4, 5 or 6 of NRS 645.635.....	500
Subsection 7 or 8 of NRS 645.635.....	1,000
<i>Subsection 3 of NRS 645.660</i>	<i>1,000</i>
NAC 645.610	500
NAC 645.620	500
NAC 645.627	500
NAC 645.632	500

	For each Offense
NAC 645.637	500
NAC 645.640	500
NAC 645.645	500
NAC 645.650	1,000
NAC 645.655	1,000
<i>NAC 645.855</i>	<i>2,000</i>

2. In addition to or in lieu of imposing an administrative fine pursuant to subsection 1, the Administrator may:

- (a) Recommend to the Commission that the license of the licensee ~~for the~~ **and any** permit of the licensee ~~if he holds a permit to engage in property management, or both,~~ be suspended or revoked;
- (b) Require a licensee to complete continuing education; or
- (c) Take any combination of the actions set forth in paragraphs (a) and (b).

Sec. 24. NAC 645.810 is hereby amended to read as follows:

645.810 1. The presiding officer of a hearing shall:

(a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

(c) Administer the oath to all persons whose testimony will be taken:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?

(d) Ascertain whether either party wishes to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the Commission or upon the motion of either party. If a witness is excluded, he will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) *Have the discretion to limit the opening and closing statements of the parties.*

(h) Request the Division to proceed with the presentation of its case.

2. The Division may not submit any evidence to the Commission before the hearing except for the complaint and answer.

3. The respondent may cross-examine witnesses in the order that the Division presents them.

4. Witnesses or counsel may be questioned by the members of the Commission at any time during the proceeding.

5. Evidence which is to be introduced:

(a) Must first be marked for identification; and

(b) May be received by the Commission at any point during the proceeding.

6. When the Division has completed its presentation, the presiding officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his behalf.

7. The Division may cross-examine witnesses in the order that the respondent presents them.

8. When the respondent has completed his presentation, the Division may call any rebuttal witnesses.

9. When all testimony for the Division and respondent has been given and all evidence submitted, the presiding officer may request the Division and the respondent to summarize their presentations.

10. The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

11. The date of decision for the purpose of subsection 2 of NRS 645.760 is the date the written decision is signed by a Commissioner or filed with the Commission, whichever occurs later.

12. In the absence of the President of the Commission, any matter which must be acted upon may be submitted to the Vice President or to the Secretary.

13. Upon the presentation of evidence that the respondent received notice of the hearing and has not filed an answer within the time prescribed pursuant to NRS 645.685, his default may be entered and a decision may be issued based upon the allegations of the complaint.

Sec. 25. NAC 645.830 is hereby amended to read as follows:

645.830 The procedures for obtaining and granting continuances of Commission hearings are as follows:

1. The time of the hearing may be continued by the Commission upon the written petition of the licensee or upon the written petition of the Division for good cause shown, or by stipulation of the parties to the hearing.

2. ~~[A continuance will not be granted on the grounds that the licensee's attorney has not had an opportunity to review the case unless he was given the case by the licensee less than 15 days before the hearing.]~~

~~—3.]~~ A continuance will not be granted unless it is made in good faith and not merely for delay.

~~[4.]~~ 3. A request for a continuance made before the hearing must be served upon the Commission as set forth in subsection 4 of NRS 645.050. If the Secretary of the Commission is not available to review and rule upon the continuance before the hearing, the continuance must be reviewed and ruled upon by the:

- (a) President of the Commission; or
- (b) If the President is unavailable, the Vice President of the Commission.

Sec. 26. NAC 645.855 is hereby amended to read as follows:

645.855 ~~{The}~~ *If a person licensed as a real estate salesman or real estate broker-salesman is accused of violating any provision of this chapter or chapter 645 of NRS, the broker of record with whom ~~{a}~~ *the* person licensed as a real estate salesman or real estate broker-salesman ~~{is}~~ *was* associated *at the time of the alleged violation and the broker with whom the person licensed as a real estate salesman or real estate broker-salesman is currently associated* shall attend any disciplinary hearing before the Commission concerning that licensee.*