

The most violated statutes and codes as evident by recent disciplinary cases:

In review of recent disciplinary actions, certain statutes and codes are more commonly violated than other statutes and codes. NRS 645.252 and NAC 645.600 have been highlighted below wherein in case files have also been used as example.

Evaluation of NRS 645.252 –

Most disciplinary actions involving NRS 645.252 stem from section 1A and in particular, the statement “Should have known.”

Though one can concede that it is virtually impossible to know everything, wherein should have known, using 3rd party licensed professionals to work with specific areas relating to property condition, accounting and valuation is continually recommended. Failure or “Waiver” of said contracted services can not only hurt the client but can also imply evidence of violation with the confines of 645.252.

NRS 645.252 Duties of licensee acting as agent in real estate transaction. A licensee who acts as an agent in a real estate transaction:

1. Shall disclose to each party to the real estate transaction as soon as is practicable:
 - (a) Any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence **should have known**, relating to the property which is the subject of the transaction.
 - (b) Each source from which the licensee will receive compensation as a result of the transaction.
 - (c) That the licensee is a principal to the transaction or has an interest in a principal to the transaction.
 - (d) Except as otherwise provided in [NRS 645.253](#), that the licensee is acting for more than one party to the transaction. If a licensee makes such a disclosure, he or she must obtain the written consent of each party to the transaction for whom the licensee is acting before he or she may continue to act in his or her capacity as an agent. The written consent must include:
 - (1) A description of the real estate transaction.
 - (2) A statement that the licensee is acting for two or more parties to the transaction who have adverse interests and that in acting for these parties, the licensee has a conflict of interest.

(3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he or she is required to do so by a court of competent jurisdiction or is given written permission to do so by that party.

(4) A statement that a party is not required to consent to the licensee acting on behalf of the party.

(5) A statement that the party is giving consent without coercion and understands the terms of the consent given.

(e) Any changes in the licensee's relationship to a party to the transaction.

2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.

3. Shall provide the appropriate form prepared by the Division pursuant to [NRS 645.193](#) to:

(a) Each party for whom the licensee is acting as an agent in the real estate transaction; and

(b) Each unrepresented party to the real estate transaction, if any.

4. Unless otherwise agreed upon in writing, owes no duty to:

(a) Independently verify the accuracy of a statement made by an inspector certified pursuant to [chapter 645D](#) of NRS or another appropriate licensed or certified expert.

(b) Conduct an independent inspection of the financial condition of a party to the real estate transaction.

(c) Conduct an investigation of the condition of the property which is the subject of the real estate transaction.

(Added to NRS by [1995, 2072](#); A [2001, 2892](#); [2005, 649](#); [2007, 1788](#))

Evaluation of NAC 645.600

Most disciplinary actions involving NAC 645.600 stem from section 1 and in particular, the statement “supervise the activities of those licensees, the activities of his or her employees and the operation of his or her business.” This statement has been the crutch to fault most brokerages when a licensee is acting outside of their scope of expertise or conducting business in any methods determined to be detrimental to the profession. Larger brokerages are especially vulnerable to this code wherein it is unrealistic to fulfill complete supervision by one broker to hundreds or thousands of licensees.

NAC 645.600 Responsibilities of broker regarding associated licensees, employees and operation of business; agreement to retain licensee as independent contractor. ([NRS 645.050](#), [645.190](#))

1. Every real estate broker shall teach the licensees associated with him or her the fundamentals of real estate or time-share practice, or both, and the ethics of the profession. The broker shall **supervise the activities of those licensees, the activities of his or her employees and the operation of his or her business.**

2. The supervision described in subsection 1 includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage:

(a) The real estate transactions performed by a licensee who is associated with the real estate broker;

(b) Documents that may have a material effect upon the rights or obligations of a party to such a real estate transaction;

(c) The filing, storage and maintenance of such documents;

(d) The handling of money received on behalf of a real estate broker;

(e) The advertising of any service for which a real estate license is required; and

(f) The familiarization by the licensee of the requirements of federal and state law governing real estate transactions, including, without limitation, prohibitions against discrimination.

3. In establishing such policies, rules, procedures and systems, the real estate broker shall consider the number of licensees associated with the real estate broker, the number of employees employed by the real estate broker and the number and location of branch offices operated by the real estate broker.

4. A real estate broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. The real estate broker may use a real estate broker-salesperson to assist in administering the provisions of this section so long as the real estate

broker does not relinquish overall responsibility for the supervision of the acts of the licensees associated with the real estate broker.

5. A real estate broker may enter into a written agreement with each licensee associated with the real estate broker to retain the licensee as an independent contractor. If such an agreement is entered into, it must:

(a) Be signed and dated by the real estate broker and the licensee; and

(b) Include the material aspects of the relationship between the real estate broker and the licensee, including, without limitation, the supervision by the real estate broker of the activities of the licensee for which a real estate license is required.

[Real Estate Adv. Comm'n, § VII subsec. 1, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 4-27-84; R111-01, 12-17-2001; R031-04, 11-30-2004)