

**ADOPTED REGULATION OF THE BOARD OF EXAMINERS  
FOR ALCOHOL, DRUG AND GAMBLING COUNSELORS**

**LCB File No. R157-03**

Effective December 16, 2003

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

AUTHORITY: §§1-8, 12-22, 25, 30-33, 35-40, 42-48, 52, 53 and 56-61, NRS 641C.200; §§9 and 11, NRS 641C.200 and 641C.390; §§10 and 26, NRS 641C.200 and 641C.300; §23, NRS 641C.200, 641C.350, 641C.390, 641C.420, section 7 of Senate Bill No. 351 of the 72nd Session of the Nevada Legislature, chapter 277, Statutes of Nevada 2003, at page 1417 (NRS 641C.430) and section 9 of Senate Bill No. 351 of the 72nd Session of the Nevada Legislature, chapter 277, Statutes of Nevada 2003, at page 1418 (NRS 641C.440); §24, NRS 641C.200 and 641C.260; §27, NRS 641C.200 and 641C.310; §§28 and 41, NRS 641C.200 and 641C.450; §29, NRS 641C.200 and 641C.470; §34, NRS 641C.200 and 641C.210; §§49-51, NRS 641C.200 and 641C.700; §54, NRS 641C.200 and 641C.720; §55, NRS 641C.200 and 641C.760.

**Section 1.** Chapter 641C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

**Sec. 2.** *“Accredited college or university” means a college or university that is accredited by a national or regional accrediting agency that is recognized by the United States Department of Education.*

**Sec. 3.** *“Certified intern” means a person who is certified as an alcohol and drug abuse counselor intern or as a problem gambling counselor intern pursuant to the provisions of this chapter and chapter 641C of NRS.*

**Sec. 4.** *“Party” includes, without limitation:*

**1.** *A holder of a license or certificate issued by the Board who has been served with a formal complaint alleging a disciplinary violation;*

2. *An attorney who is representing the holder of a license or certificate issued by the Board; and*

3. *The legal counsel.*

**Sec. 5.** *“Practice of counseling alcohol and drug abusers” means the application of counseling to reduce or eliminate the habitual use of alcohol or other drugs, other than any maintenance dosage of a narcotic or habit-forming drug administered pursuant to chapter 453 of NRS.*

**Sec. 6.** *“Practice of counseling problem gamblers” means the application of counseling to reduce or eliminate problem gambling.*

**Sec. 7.** *“Problem gambling” means persistent and recurrent maladaptive behavior relating to gambling that causes disruptions in any major area of life, including, without limitation, the psychological, social or vocational areas of life.*

**Sec. 8.** *“Treatment for problem gambling” means the care of a person suffering from problem gambling through counseling.*

**Sec. 9. 1.** *A person who has contracted with or receives a grant from the Federal Government to provide services as an alcohol and drug abuse counselor to persons who are authorized to receive those services pursuant to 25 U.S.C. §§ 450 et seq. or 25 U.S.C. §§ 1601 et seq. may apply for a certificate as an alcohol and drug abuse counselor without satisfying the educational requirement set forth in paragraph (c) of subsection 1 of NRS 641C.390 if he satisfies all of the other requirements set forth for certification as an alcohol and drug abuse counselor in this chapter and chapter 641C of NRS.*

**2.** *For a person described in subsection 1 to qualify for certification as an alcohol and drug abuse counselor, he must:*

- (a) *Have received a high school diploma or a general education diploma and have completed 270 hours of formal education approved by the Board, including the minimum hours required pursuant to subsection 3; or*
- (b) *Have been issued a credential to provide counseling services relating to alcohol and drug abuse by the Southwest Indian Substance Abuse Certification Board or the Northwest Indian Council on Chemical Dependency.*
3. *To satisfy the requirements for formal education set forth in subsection 2, the education must include at least 10 hours of instruction in each of the following skills:*
- (a) *Screening;*
  - (b) *Intake;*
  - (c) *Orientation;*
  - (d) *Assessment;*
  - (e) *Treatment planning;*
  - (f) *Counseling;*
  - (g) *Case management;*
  - (h) *Crisis intervention;*
  - (i) *Client education;*
  - (j) *Referral;*
  - (k) *Reports and recordkeeping; and*
  - (l) *Consultation with other professionals.*
4. *For the purposes of this chapter and paragraph (d) of subsection 1 of NRS 641C.390, the Board will consider an applicant for a certificate as an alcohol and drug abuse counselor who has contracted with or receives a grant from the Federal Government to provide services*

*as an alcohol and drug abuse counselor to persons who are authorized to receive those services pursuant to 25 U.S.C. §§ 450 et seq. or 25 U.S.C. §§ 1601 et seq. to have successfully completed 1,000 hours of supervised counseling of drug and alcohol abusers if the applicant has successfully completed an associate's degree in a field of social science approved by the Board.*

*5. A person who is issued a certificate as an alcohol and drug abuse counselor pursuant to this section must be referred to as a Native American Alcohol and Drug Abuse Counselor.*

*6. As used in this section, "formal education" means formal, structured instruction received after the receipt of a high school diploma or a general education diploma, including, without limitation, workshops, seminars, institutes, courses from an accredited college or university or distance learning that is specifically related to the knowledge and skills necessary to perform activities and services relating to assessments, counseling, case management, and educational and professional responsibilities and ethics.*

**Sec. 10. 1. An applicant for a certificate as an alcohol and drug abuse counselor described in section 9 of this regulation who is applying for certification without examination pursuant to NRS 641C.300 must submit to the Board:**

- (a) A written application on a form prescribed by the Board.*
- (b) Except as otherwise provided in subsection 4 of NAC 641C.245, the applicable fee.*
- (c) Proof satisfactory to the Board that the applicant was issued a credential to provide counseling services relating to alcohol and drug abuse by the Southwest Indian Substance Abuse Certification Board or the Northwest Indian Council on Chemical Dependency that is currently valid and in good standing.*

- (d) A statement concerning whether the credential issued by the Southwest Indian Substance Abuse Certification Board or the Northwest Indian Council on Chemical Dependency has ever been suspended, revoked or otherwise restricted for any reason.
- (e) The fingerprint cards required pursuant to NRS 641C.260 and the amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories.
- (f) Proof satisfactory to the Board that the applicant has satisfied any other requirements set forth in this chapter and chapter 641C of NRS to engage in the practice of counseling alcohol and drug abusers authorized to receive those services pursuant to 25 U.S.C. §§ 450 et seq. or 25 U.S.C. §§ 1601 et seq.

2. If an applicant for a certificate as an alcohol and drug abuse counselor described in paragraph (b) of subsection 2 of section 9 of this regulation applies for certification without examination and holds or previously held a credential issued by the Southwest Indian Substance Abuse Certification Board or the Northwest Indian Council on Chemical Dependency which is or was suspended, revoked or otherwise restricted, or if the applicant has otherwise been subjected to any discipline for any reason by the entity which issued the credential, the Board will review and consider the specific facts and circumstances surrounding the suspension, revocation, restriction or disciplinary action, and may use this review and consideration in determining whether to issue a certificate without examination to the applicant or to deny his application for certification without examination.

Sec. 11. A person who is issued a certificate as an alcohol and drug abuse counselor by the Board pursuant to section 9 of this regulation:

*1. May only provide counseling services relating to alcohol and drug abuse to those persons who are authorized to receive those services pursuant to 25 U.S.C. §§ 450 et seq. or 25 U.S.C. §§ 1601 et seq.*

*2. Shall represent himself only as an alcohol and drug abuse counselor certified to provide counseling services to persons who are authorized to receive those services pursuant to 25 U.S.C. §§ 450 et seq. and 25 U.S.C. §§ 1601 et seq.*

**Sec. 12.** *The presiding officer may order a prehearing conference and may enter such prehearing orders as the presiding officer determines are appropriate for the efficient conduct of the hearing, including, without limitation:*

- 1. The exchange of written direct testimony of witnesses;*
- 2. The exclusion of particular testimony or evidence;*
- 3. The admission of particular testimony and other exhibits by agreement of the parties;*
- 4. The advance marking of all exhibits;*
- 5. The exchange by the parties of written prehearing statements or briefs similar to pretrial statements filed in district court; and*
- 6. Settlement negotiations. Settlement negotiations, and the statements of parties relating thereto, made at a prehearing conference are not admissible in evidence at the hearing unless the parties agree and the agreement is incorporated in a prehearing order.*

**Sec. 13.** *1. The presiding officer may issue rulings on all preliminary matters, including, without limitation, scheduling matters, protective orders, the admissibility of evidence, and other procedural or prehearing matters.*

*2. A ruling on a preliminary matter is subject to reconsideration by the entire Board upon the request of a member of the Board or upon the motion of a party.*

*3. The failure of a party who is adversely affected by a ruling on a preliminary matter to move for reconsideration of the ruling does not constitute:*

- (a) Consent to the ruling; or*
- (b) Waiver of any objection previously made to the ruling.*

*4. For the purposes of this section, a matter is preliminary if it is not dispositive of a contested case or a substantive issue therein.*

**Sec. 14. 1. After a hearing on the merits in a disciplinary proceeding, if the Board finds that the respondent is:**

*(a) Not guilty as charged in the formal complaint, the Board will issue a final order or decision dismissing the charges and notify the respondent that the charges have been dismissed.*

*(b) Guilty as charged in the formal complaint, the Board will:*

*(1) Before agreeing on a punishment, consider all relevant factors, including, without limitation:*

*(I) The danger to the health or safety of the public from the violation;*

*(II) The economic benefit received by the respondent from the violation;*

*(III) Any mitigation or aggravation by the respondent of the effects of the violation;*

*(IV) The extent to which the respondent demonstrates his good faith;*

*(V) Any previous history of violations by the respondent;*

*(VI) Whether the respondent knew or, as a competent person, should have known that the action complained of was a violation of law, regulation or a condition of his license;*

*(VII) Whether the respondent has initiated remedial measures to prevent similar violations;*

*(VIII) The magnitude of penalties imposed on other licensees for similar violations;*

*(IX) The proportionality of the penalty in relation to the misconduct; and*

*(X) If the respondent offered evidence of mitigating factors, all such evidence;*

*(2) Agree upon punishment that may, in addition to any other sanction authorized pursuant to this chapter or chapter 641C of NRS, require the respondent to:*

*(I) Fulfill certain training or educational requirements; and*

*(II) Pay costs incurred by the Board relating to the disciplinary proceedings; and*

*(3) Issue and serve the final order or decision of the Board on the respondent.*

*2. A final order or decision by the Board that is adverse to the respondent must:*

*(a) Be in writing;*

*(b) Except as otherwise provided in subsection 5 of NRS 233B.121, include findings of fact and conclusions of law; and*

*(c) Specifically set forth the punishment imposed on the respondent.*

*3. A final order or decision of the Board in a disciplinary proceeding is effective on the earliest of:*

*(a) The date on which the final order or decision is personally served on the respondent;*

*(b) The date on which the final order or decision is posted at the premises of the respondent; or*

*(c) The third day after the date on which the final order or decision is deposited in the United States mail as certified mail addressed to the address of record of the respondent.*

**Sec. 15.** NAC 641C.005 is hereby amended to read as follows:

641C.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 641C.010 to 641C.065, inclusive, *and sections 2 to 8, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 16.** NAC 641C.015 is hereby amended to read as follows:

641C.015 “Board” means the Board of Examiners for Alcohol ~~and Drug Abuse~~, *Drug and Gambling* Counselors.

**Sec. 17.** NAC 641C.020 is hereby amended to read as follows:

641C.020 “Client” means a natural person, couple or family who receives counseling services for alcohol and drug abuse ~~. or for problem gambling.~~ *. or for problem gambling.*

**Sec. 18.** NAC 641C.025 is hereby amended to read as follows:

641C.025 “Complainant” means a person who ~~complains to~~ *files a complaint with* the Board ~~of any act of another person subject to the jurisdiction of~~ *concerning a holder of a license or certificate issued by* the Board.

**Sec. 19.** NAC 641C.030 is hereby amended to read as follows:

641C.030 “Counselor” means a person who is ~~licensed~~ :

- 1. Licensed** or certified as an alcohol and drug abuse counselor ~~.; or~~ *.; or*
- 2. Certified as a problem gambling counselor.**

**Sec. 20.** NAC 641C.040 is hereby amended to read as follows:

641C.040 “Hour of continuing education” means 50 minutes of instruction devoted to a program of continuing education which is related to ~~the~~ :

- 1. The** practice of counseling alcohol and drug abusers ~~.; or~~ *.; or*
- 2. The practice of counseling problem gamblers.**

**Sec. 21.** NAC 641C.055 is hereby amended to read as follows:

641C.055 “Respondent” means [a person] ***the holder of a license or certificate issued by the Board*** against whom a complaint is filed or an investigation is initiated.

**Sec. 22.** NAC 641C.065 is hereby amended to read as follows:

641C.065 [“Treatment”] ***Treatment for alcohol and drug abuse*** means the care of a person with a substance use disorder through detoxification, medication or counseling, or any combination thereof.

**Sec. 23.** NAC 641C.070 is hereby amended to read as follows:

641C.070 [As used in] ***For the purposes of*** this chapter and [in] NRS 641C.350, 641C.390 [and 641C.420, the], ***641C.420, section 7 of Senate Bill No. 351 of the 72nd Session of the Nevada Legislature, chapter 277, Statutes of Nevada 2003, at page 1417 (NRS 641C.430) and section 9 of Senate Bill No. 351 of the 72nd Session of the Nevada Legislature, chapter 277, Statutes of Nevada 2003, at page 1418 (NRS 641C.440):***

1. ***The*** Board will interpret the term “field of social science” to mean [any]:

(a) ***Any*** program in [counseling]:

(1) ***Counseling*** alcohol and substance abusers [, psychiatry, psychology, social work, marriage];

(2) ***Counseling problem gamblers;***

(3) ***Psychiatry;***

(4) ***Psychology;***

(5) ***Social work;***

(6) ***Marriage*** and family therapy [, nursing, medicine or any];

(7) ***Nursing; or***

(8) ***Medicine; or***

**(b) Any** other program related to the study of the human mind and mental illness.

**2. The Board may consider whether the course descriptions for a degree from an accredited college or university that includes at least 24 semester hours or 32 quarter hours of courses relating to counseling qualify the degree as a degree in a "field of social science."**

**Sec. 24.** NAC 641C.200 is hereby amended to read as follows:

641C.200 1. An applicant for a license or certificate as ~~[an alcohol and drug abuse]~~ a counselor or a certificate as ~~[an alcohol and drug abuse counselor intern, must file a]~~ a certified **intern shall submit to the Board:**

**(a) A** completed application which documents that the applicant meets the qualifications for the license or certificate for which he is applying. ~~[An applicant must include a]~~

**(b) A** nonrefundable fee for the materials required to apply for the type of licensure or certification sought. The amount of the fee required by this subsection is equal to the amount required by the testing company used by the Board for those materials necessary to test the applicant.

**(c) The fingerprint cards required pursuant to NRS 641C.260 and the amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories.**

2. For good cause, the Board may allow an applicant to present at a meeting of the Board documentation and other evidence, in addition to the documentation and evidence which he has previously submitted with his application, to demonstrate further his qualifications for licensure or certification.

3. By submitting his application, an applicant for licensure or certification grants the Board full authority to make any investigation or personal contact necessary for the Board to verify the authenticity of the matters and information stated within the application. If the Board so requests, an applicant shall supply such information as the Board may require to verify the matter and information contained in his application.

4. If the Board determines that it is necessary, the Board will appoint a subcommittee to examine an application and make recommendations to the Board concerning that application.

5. If the Board determines that it is necessary, the Board will require an applicant for licensure or certification to appear personally before the Board. A personal appearance of an applicant for the purposes of this section may be conducted in an open or a closed session of the Board as the Board determines appropriate.

6. An applicant for licensure or certification who is a graduate of a foreign program must submit documentation to the Board that demonstrates to the satisfaction of the Board that the foreign program from which the applicant graduated is equivalent to a comparable program from an accredited college or university.

~~[7. As used in this section, “accredited college or university” means a college or university that is accredited by a national or regional accrediting agency that is recognized by the United States Department of Education.]~~

**Sec. 25.** NAC 641C.215 is hereby amended to read as follows:

641C.215 1. Upon receiving an application for licensure or certification as a counselor or certified intern, the staff shall review the application to determine whether the application is complete and the applicant satisfies all the requirements for the licensure or certification sought.

2. If the application is for licensure or certification as a counselor and the application is determined to be complete and it provides evidence that the applicant has satisfied all the requirements for the licensure or certification sought, the staff shall notify the applicant:

- (a) That his application is in order; and
- (b) Of the next date, time and place for the examination which the applicant must take.

3. If the application is for a certificate as ~~[an alcohol and drug abuse counselor]~~ **a certified intern** and the application is determined to be complete and it provides evidence that the applicant has satisfied all the requirements for certification as ~~[an]~~ **a certified intern**, the Board will issue a certificate as an alcohol and drug abuse counselor intern **or a problem gambling counselor intern** to the applicant.

4. The staff may, not later than 30 days after the date on which it receives an application for licensure or certification, reject the application if the applicant:

- (a) Fails to complete the application as specified by the Board;
- (b) Does not meet the minimum requirements for:
  - (1) The license or certificate for which the applicant is applying; or
  - (2) The examination for the license or certificate for which the applicant is applying;
- (c) Has previously had his license or certificate revoked by the Board; ~~[or]~~
- (d) Has been convicted during the 2 years immediately preceding the date on which he submitted the application of any crime other than a violation of a traffic law not involving alcohol or a controlled substance ~~[.]~~;
- (e) **Has not completed a term of parole or probation from a conviction obtained in this state, another state, a territory or possession of the United States, or the District of Columbia before the 2 years immediately preceding the date on which he submitted the application; or**

**(f) Has falsified any information provided in his application.**

→ If the staff rejects an application for licensure or certification, the staff shall forthwith notify the applicant in writing that the application has been rejected.

5. An applicant for licensure or certification whose application is received less than 90 days before a regularly scheduled examination will not be scheduled to sit for that examination but will be scheduled to sit for the next following regularly scheduled examination.

**Sec. 26.** NAC 641C.225 is hereby amended to read as follows:

641C.225 **1.** An applicant for licensure **or certification** without examination **as an alcohol and drug abuse counselor** pursuant to NRS 641C.300 **or an applicant for certification without examination as a problem gambling counselor who holds a license or certificate as a problem gambling counselor in another state, a territory or possession of the United States, or the District of Columbia in which the requirements of that jurisdiction at the time the license or certificate was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the provisions of this chapter and chapter 641C of NRS** must submit to the Board:

**[1.] (a)** A written application on a form prescribed by the Board;

**[2.—The]**

**(b) Except as otherwise provided in subsection 4 of NAC 641C.245, the** applicable fee;

**[3.] (c)** Proof satisfactory to the Board that the license, **certificate** or other credential held by the applicant:

**[(a)] (1)** Was issued by another state, a territory or possession of the United States, or the District of Columbia;

**[(b)] and**

- (2) Is currently valid and in good standing; ~~and~~
- ~~(e) Has never been suspended, revoked or otherwise restricted for any reason; and~~
- ~~4.] (d) Proof satisfactory to the Board that the applicant had a bachelor's degree, master's degree or doctoral degree from an accredited college or university in a field of social science approved by the Board at the time the license, certificate or other credential was issued by another state, a territory or possession of the United States, or the District of Columbia;~~
- ~~(e) A statement concerning whether the license, certificate or other credential issued by another state, a territory or possession of the United States, or the District of Columbia has ever been suspended, revoked or otherwise restricted for any reason;~~
- ~~(f) The fingerprint cards required pursuant to NRS 641C.260 and the amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories; and~~
- ~~(g) Proof satisfactory to the Board that the applicant ~~is otherwise qualified~~ has satisfied any other requirements set forth in this chapter and chapter 641C of NRS to engage in the practice of counseling alcohol and drug abusers ~~.] or the practice of counseling problem gamblers, including, without limitation, NRS 641C.350, 641C.390 and section 7 of Senate Bill No. 351 of the 72nd Session of the Nevada Legislature, chapter 277, Statutes of Nevada 2003, at page 1417 (NRS 641C.430) and NAC 641C.220.~~~~

2. If an applicant for licensure or certification without examination holds or previously held a similar license, certificate or other credential issued by another state, a territory or possession of the United States, or the District of Columbia which is or was suspended, revoked or otherwise restricted, or if the applicant has otherwise been subjected to any

*discipline for any reason by the entity which issued the license, certificate or other credential, the Board will review and consider the specific facts and circumstances surrounding the suspension, revocation, restriction or disciplinary action, and may use this review and consideration in determining whether to issue a license or certificate without examination to the applicant or to deny his application for licensure or certification without examination.*

**Sec. 27.** NAC 641C.230 is hereby amended to read as follows:

641C.230 If an applicant for licensure or certification holds or previously held a similar license or credential issued by *this state*, another state, a territory or possession of the United States, or the District of Columbia which is or was suspended, revoked or restricted, or if the applicant has otherwise been subjected to any discipline for any reason by the entity which issued the license or other credential, the Board will review and consider the specific facts and circumstances surrounding the suspension, revocation, restriction or disciplinary action, and may use this review and consideration in determining whether to issue a license or certificate to the applicant or *to* deny his application for licensure or certification.

**Sec. 28.** NAC 641C.235 is hereby amended to read as follows:

641C.235 1. *To renew a license or certificate issued by the Board, the holder of the license or certificate must submit:*

(a) An application for the renewal of a license or certificate ~~[must be completed]~~ on a form provided by the Board ~~[and submitted to the Board]~~ on or before the date on which the license or certificate expires. ~~[An application for the renewal of a license or certificate must be accompanied by the]~~

(b) *The* appropriate renewal fee.

*(c) Except as otherwise provided in this paragraph, the fingerprint cards required pursuant to section 3 of Senate Bill No. 248 of the 72nd Session of the Nevada Legislature, chapter 207, Statutes of Nevada 2003, at page 1164 (NRS 641C.530) and the amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories. An applicant for the renewal of a license or certificate is only required to submit the fingerprint cards and the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation with the application for renewal for the third biennial renewal period after the initial licensure or certification and every third biennial renewal period thereafter.*

2. If a complete application for the renewal of a license or certificate, including the required *renewal* fee ~~and fingerprint cards and fees, if applicable~~, is not postmarked on or before the last day for submitting the application for the renewal of the license or certificate, the license or certificate becomes delinquent.

**Sec. 29.** NAC 641C.240 is hereby amended to read as follows:

641C.240 The Board will charge and collect the following fees:

1. For the initial application for a license or certificate .....~~\$60~~ *\$120*
2. For the application for a certificate as a supervisor of certified interns.....~~\$20~~ *\$30*
3. For the issuance of a provisional license or certificate .....~~\$60~~ *\$125*
4. For the issuance of an initial license or certificate.....\$60
5. For the issuance of a certificate as a supervisor of certified interns .....~~\$20~~ *\$30*
6. For the renewal of a license or certificate as ~~an alcohol and drug abuse~~ *a*

counselor.....	<b>[<del>\$150</del>] \$200</b>
7. For the renewal of a certificate as <del>an alcohol and drug abuse counselor</del> a <i>certified</i> intern.....	<b>[<del>\$70</del>] \$75</b>
8. For the renewal of a delinquent license or certificate .....	\$75
9. For the restoration of an expired license or certificate.....	\$150
10. For the deactivation of a license or certificate .....	<b>[<del>\$20</del>] \$25</b>
11. For the reactivation of a license or certificate.....	<b>[<del>\$20</del>] \$25</b>
12. For the replacement of a license or certificate .....	<b>[<del>\$20</del>] \$25</b>
13. For the restoration or reinstatement of a suspended or revoked license or certificate.....	\$300
14. <b>[For] Except as otherwise provided in subsection 4 of NAC 641C.245,</b> <i>for</i> the issuance of a license or certificate without examination.....	<b>[<del>\$125</del>] \$150</b>
15. For an examination.....	<b>[<del>\$60</del>] \$80,</b> plus the amount required by a testing company, if any, used by the Board for testing applicants.
<b>16. For the approval of a course of continuing education that includes:</b>	
(a) <i>Less than 10 hours of continuing education</i> .....	\$30
(b) <i>At least 10 but less than 20 hours of continuing education</i> .....	\$50
(c) <i>At least 20 but less than 30 hours of continuing education</i> .....	\$75
(d) <i>At least 30 but less than 40 hours of continuing education</i> .....	\$100
(e) <i>Forty or more hours of continuing education</i> .....	\$150
<b>17. The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint</b>	

*cards and issuance of the reports of criminal histories.*

**Sec. 30.** NAC 641C.245 is hereby amended to read as follows:

641C.245 1. Fees and remittances to the Board must be made by money order, bank draft or check payable to the Board.

2. Payment in full of all required fees must accompany each application for licensure or certification and each application for the renewal of licensure or certification.

3. The Board will consider an application for licensure or certification to have lapsed if no action has been taken by the applicant for 1 year after the date on which the Board received the application. If an applicant for licensure or certification whose application has lapsed pursuant to this subsection subsequently wishes to receive a license or certificate from the Board, the applicant must submit a new application for licensure or certification accompanied by the required fees.

4. *The Board may waive the fee for licensure or certification without examination pursuant to NRS 641C.470 and subsection 14 of NAC 641C.240 of an applicant for licensure or certification as an alcohol and drug abuse counselor submitted pursuant to section 10 of this regulation or an applicant for certification as a problem gambling counselor submitted pursuant to NAC 641C.225 if the applicant has taken and passed an examination for licensure or certification as a counselor or counselor intern in another state, a territory or possession of the United States, or the District of Columbia that has been approved by the Board and is equivalent to the examination required by the Board for licensure or certification in this State.*

**Sec. 31.** NAC 641C.250 is hereby amended to read as follows:

641C.250 1. A [counselor] person who is licensed or certified as an alcohol and drug abuse counselor may:

- (a) Provide counseling for the abuse of alcohol and other drugs, including, without limitation:
    - (1) Making a diagnosis or classification;
    - (2) Providing a referral; or
    - (3) Planning a course of treatment;
  - (b) Provide counseling to a person who has a significant relationship with an identified or suspected abuser of alcohol or drugs, only to the extent necessary to treat the identified or suspected abuser or engage the identified or suspected abuser in treatment; and
    - (c) Conduct testing for which the counselor was trained.
2. *A person who is certified as a problem gambling counselor may:*
- (a) *Provide counseling for problem gambling, including, without limitation:*
    - (1) *Making a diagnosis or classification;*
    - (2) *Providing a referral; or*
    - (3) *Planning a course of treatment;*
  - (b) *Provide counseling to a person who has a significant relationship with an identified or suspected problem gambler, only to the extent necessary to treat the identified or suspected problem gambler or engage the identified or suspected problem gambler in treatment; and*
    - (c) *Conduct testing for which the counselor was trained.*

3. A certified intern may provide any of the services described in subsection 1 subject to the clinical supervision and allowance by the licensed *or certified* counselor supervising the certified intern. If a certified intern diagnoses or classifies a client, the diagnosis or classification must be

substantiated in the clinical record of the client and countersigned by the licensed *or certified* counselor supervising the certified intern.

[3.] 4. Except as otherwise provided in **subsection 5 and in** NRS 641C.130, the provision of counseling services *related to alcohol and drug abuse or problem gambling* to a client in this state through any means, including, without limitation, electronic means or by telephone, regardless of the location of the person providing that counseling, constitutes the practice of counseling alcohol and drug abusers *or the practice of counseling problem gamblers* which is subject to the provisions of this chapter and chapter 641C of NRS.

[4.] 5. *The practice of counseling alcohol and drug abusers and the practice of counseling problem gamblers in this state does not include counseling activities or services provided by the following persons:*

(a) *A student of psychology or any other person preparing for the profession of psychology under the supervision of a qualified psychologist in a training institution or facility recognized by the Board of Psychological Examiners pursuant to the provisions of chapter 641 of NRS. Such a student or person must be designated by the title “psychological trainee,” “psychological intern,” “psychological resident” or “psychological assistant,” or any other title which clearly indicates his training status.*

(b) *A student of marriage and family therapy or any other person preparing for the profession of marriage and family therapy under the supervision of a qualified marriage and family therapist in a training institution or facility recognized by the Board of Examiners for Marriage and Family Therapists pursuant to chapter 641A of NRS. Such a student or person must be designated by the title “intern in marriage and family therapy,” or any other title which clearly indicates his training status.*

*(c) A student of social work or any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board of Examiners for Social Workers pursuant to chapter 641B of NRS. Such a student must be designated by the title “student of social work” or “trainee in social work,” or any other title which clearly indicates his training status.*

**6.** A person who engages in the practice of counseling alcohol and drug abusers may represent himself as:

- (a) A licensed **alcohol and drug abuse** counselor, or use the initials “LADC” after his name, only if the counselor is licensed as such by the Board.
- (b) A certified **alcohol and drug abuse** counselor, or use the initials “CADC” after his name, only if ~~the~~ the counselor is certified as such by the Board.

**15.] (c) If the person is issued a certificate as an alcohol and drug abuse counselor pursuant to section 9 or 10 of this regulation, a Native American certified alcohol and drug abuse counselor, or use the initials “NACADC” after his name.**

**7.** A person who engages in the practice of counseling problem gamblers may represent himself as a certified problem gambling counselor, or use the initials “CPGC” after his name, only if the counselor is certified as such by the Board.

**8.** Except as otherwise provided in subsection 9, a certified intern may represent himself as [a]:

- (a) A certified alcohol and drug abuse counselor intern, ~~including using the designation “CADC Intern,” except that his] or use the words “CADC Intern” after his name, only if the certified intern is certified as such by the Board.~~

*(b) A certified problem gambling counselor intern, or use the words “CPGC Intern” after his name, only if the certified intern is certified as such by the Board.*

**9.** *The representation used by a certified intern* must ensure that a client does not confuse or misunderstand the fact that the certified intern is not a licensed or certified counselor.

**Sec. 32.** NAC 641C.255 is hereby amended to read as follows:

641C.255 Whenever a person subject to the jurisdiction of the Board provides counseling to alcohol or drug abusers ~~[,]~~ *or problem gamblers*, the person shall carry evidence that is satisfactory to the Board that he holds a license or certificate issued by the Board which entitles him to engage in the practice of counseling alcohol and drug abusers ~~[,]~~ *or the practice of counseling problem gamblers*.

**Sec. 33.** NAC 641C.265 is hereby amended to read as follows:

641C.265 A ~~certificate as an alcohol and drug abuse counselor intern issued by the Board to a~~ certified intern ~~must be prominently displayed~~ *shall prominently display* at all times ~~[at]~~ *in* each location where the intern is engaging in his internship ~~[,]~~ *the certificate issued to him by the Board, or a notarized copy thereof.*

**Sec. 34.** NAC 641C.270 is hereby amended to read as follows:

641C.270 1. A copy of the list of names and ~~[professional]~~ addresses *on record with the Board* of each person licensed or certified by the Board may be obtained from the Board upon written request and payment of the cost of reproduction.

2. If a person licensed or certified by the Board changes his ~~[professional address,]~~ *address on record with the Board*, the person shall furnish the Board with his new ~~[professional]~~ address not later than 10 days after the change.

**Sec. 35.** NAC 641C.275 is hereby amended to read as follows:

641C.275 1. A counselor or certified intern may deactivate his license or certificate for a 12-month period. To deactivate his license or certificate, a counselor or certified intern must submit to the Board a written application on a form prescribed by the Board.

2. A counselor or certified intern may reactivate his license or certificate at any time during the period in which the license or certificate is deactivated. To reactivate his license or certificate, a counselor or certified intern must submit to the Board [a] :

- (a) A written application on a form prescribed by the Board [.] ; and
- (b) *Proof of completion of any hours of continuing education required to be completed pursuant to NAC 641C.300 for the period in which the license or certificate was deactivated.*

3. If a deactivated license or certificate is not reactivated before the end of the period for which the license or certificate is deactivated, the Board will consider the license or certificate to have expired and the license or certificate may only be renewed pursuant to NRS 641C.460.

**Sec. 36.** NAC 641C.280 is hereby amended to read as follows:

- 641C.280 1. To be eligible to supervise a certified intern, a ~~licensed~~ counselor must:
- (a) Be licensed *as an alcohol and drug abuse counselor or certified as a problem gambling counselor* by the Board and be in good standing with the Board and not under any investigation by the Board;
  - (b) Have satisfactorily completed a course approved by the Board for the training of supervisors; and
  - (c) Have engaged in the practice of counseling alcohol and drug abusers *or the practice of counseling problem gamblers* for at least 2 years.
2. A licensed *alcohol and drug abuse counselor or a certified problem gambling* counselor may not supervise a certified intern until he has:

- (a) Submitted a completed application for a certificate as a supervisor of certified interns to the Board on a form provided by the Board; and
- (b) Received notification from the Board that it has approved his application and he has been issued a certificate as a supervisor of certified interns.

3. The Board will maintain a list of the names of the licensed ***alcohol and drug abuse counselors and certified problem gambling*** counselors who have been approved to supervise ***certified*** interns and, upon request, will provide a copy of that list to any applicant for certification as ~~[an alcohol and drug abuse counselor]~~ ***a certified*** intern.

4. A licensed ***alcohol and drug abuse counselor or a certified problem gambling*** counselor who is supervising a certified intern shall not:

- (a) Reside with the certified intern, have an intimate relationship with the certified intern or be related to the certified intern by blood or marriage;
- (b) Have had the certified intern as a client; or
- (c) Supervise more than five certified interns at one time without the prior approval of the Board.

5. A licensed ***alcohol and drug abuse counselor or a certified problem gambling*** counselor who is supervising a certified intern is subject to disciplinary action by the Board for any violation of this chapter and chapter 641C of NRS committed by the certified intern while the certified intern is working under the supervision of the licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor.

6. A licensed ***alcohol and drug abuse counselor or a certified problem gambling*** counselor who is supervising a certified intern shall inform the Board in writing of any termination or

cessation of his supervision of the certified intern not later than 5 working days after the date on which his supervision of the certified intern terminates or ceases.

**Sec. 37.** NAC 641C.285 is hereby amended to read as follows:

641C.285 1. A licensed **alcohol and drug abuse counselor or a certified problem gambling** counselor who is supervising a certified intern shall ensure that:

- (a) The work of the certified intern is conducted in an appropriate professional setting;
- (b) The work of the certified intern is consistent with the standards of the profession;
- (c) The certified intern is assisted with the development of his professional identity;
- (d) The certified intern has gained the skills required to manage his practice;
- (e) The certified intern has gained the skills required for continuing competency;
- (f) The certified intern has gained knowledge of the laws and regulations applicable to the practice of counseling alcohol and drug abusers ~~for~~ **or the practice of counseling problem gamblers**; and

(g) The certified intern is familiar with the current literature concerning those areas of alcohol and drug abuse counseling **or problem gambling counseling** which are relevant to his area of practice.

2. A licensed **alcohol and drug abuse** counselor who is supervising a certified **alcohol and drug abuse counselor** intern shall ~~E~~

~~—(a) Communicate~~ **communicate** with the certified **alcohol and drug abuse counselor** intern on an individual basis for at least 1 hour every week, unless the Board specifically directs a different schedule or frequency for the meetings, to discuss and evaluate the performance of the certified **alcohol and drug abuse counselor** intern in his practice.

~~[(b) Prepare]~~

**3. A certified problem gambling counselor who is supervising a certified problem gambling counselor intern shall communicate with the certified problem gambling counselor intern on an individual basis for at least two sessions of 1 hour each every month for a minimum of 12 months, unless the Board specifically directs a different schedule or frequency for the meetings, to discuss and evaluate the performance of the certified problem gambling counselor intern in his practice.**

**4. A licensed alcohol and drug abuse counselor or a certified problem gambling counselor who is supervising a certified intern:**

**(a) Shall prepare** a progress report for each period of certification in which the licensed **alcohol and drug abuse counselor or certified problem gambling** counselor supervises the certified intern, on forms provided by the Board, concerning the progress of the certified intern in his practice.

**[{(e)} Be] Must be** available to consult with the Board about a certified intern being supervised by the licensed **alcohol and drug abuse counselor or certified problem gambling** counselor concerning the record, competence in practice, emotional and mental stability, and professional and ethical conduct of the certified intern.

**[3.] 5.** Upon the completion of the period of certification, if the certified intern seeks to renew his certification as **[an alcohol and drug abuse counselor]** **a certified** intern and continue his practice as a certified intern under the supervision of the licensed **alcohol and drug abuse** counselor **[,]** **or certified problem gambling counselor,** the licensed **alcohol and drug abuse** **counselor or certified problem gambling** counselor shall ensure that the progress report prepared by the licensed **alcohol and drug abuse counselor or certified problem gambling** counselor pursuant to this section is included in the application for the renewal of the certificate for the

certified intern. If, upon the completion of the period of certification, the certified intern has completed his internship, or if the supervision of the certified intern by the licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor ceases or is otherwise terminated, the licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor shall submit a progress report for that last period of certification to the Board as soon as practicable after his supervision of the certified intern ends.

**[4.] 6.** A licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor who is supervising a certified intern shall analyze the performance of the certified intern through information obtained:

- (a) By observing or participating in the practice of the certified intern at least once a month; and
- (b) From the notes taken by the certified intern.

**Sec. 38.** NAC 641C.290 is hereby amended to read as follows:

641C.290 1. Any hours which a certified intern accumulates while:

- (a) Working under the supervision of ***an alcohol and drug abuse counselor or a certified problem gambling*** counselor who has not been approved by the Board to supervise alcohol and drug abuse counselor interns **[; or problem gambling counselor interns;**
- (b) Working in an arrangement covered by an agreement relating to the supervision of the ***certified*** intern if the agreement has not been approved by the Board; **[or]**
- (c) Engaged in any activities that are not within the scope of the practice of counseling alcohol and drug abusers, ***the practice of counseling problem gamblers*** or the provision of any services relating thereto **[; or**

- (d) Not in compliance with the requirements of this chapter and chapter 641C of NRS concerning certified interns,*
- will not be counted toward the number of hours necessary to become a licensed or certified counselor.
  - 2. *If the supervisor of a certified intern changes, the certified intern must submit a new agreement concerning the supervision of the certified intern by the new supervisor to the Board for its approval not later than 5 working days after the date on which the supervisor has changed.*
  - 3. Except as otherwise provided in this subsection, if, at the time when a certified intern received his most current certification from the Board, the certified intern is enrolled in a program of education from which he will receive an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science, the licensed **alcohol and drug abuse counselor or certified problem gambling** counselor supervising the certified intern shall ensure that the certified intern is properly enrolled in that program of education during each semester within the certification period. If a certified intern completes and receives his degree from his program of education during a certification period and a new semester for that program of education begins before the end of the certification period, the licensed **alcohol and drug abuse counselor or certified problem gambling** counselor supervising the certified intern is not required to ensure that the certified intern is enrolled in the program of education for the new semester.  
[3.] 4. Except as otherwise provided in this subsection, a certified intern may not accumulate any hours necessary to become a licensed or certified counselor during the remainder of any semester from which he has withdrawn from his courses such that he is no longer enrolled

in at least 3 credit hours for a given semester. Upon request of a certified intern, the Board may waive the provisions of this subsection if the Board determines the existence of good cause, including, without limitation, extreme illness of the certified intern or the cancellation of classes by a college or university. To obtain a waiver, the certified intern:

- (a) Must provide the Board with documentation of any requested waiver within 30 days after each occurrence; and
- (b) May be requested to appear before the Board to determine if a waiver should be granted.

**[4.] 5.** A certified intern must complete the education and training necessary to become a licensed or certified counselor not later than 10 years after the date on which he initially applies to become a certified intern.

**Sec. 39.** NAC 641C.295 is hereby amended to read as follows:

641C.295 The Board will withdraw its approval for a licensed ***alcohol and drug abuse counselor or a certified problem gambling*** counselor to supervise certified interns if:

1. The licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor:
    - (a) Fails to supervise a certified intern adequately;
    - (b) Fails to comply with the provisions of this chapter and chapter 641C of NRS relating to the supervision of certified interns;
    - (c) Fails to ensure that two or more consecutive progress reports regarding the progress of each certified intern under the supervision of the licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor is submitted to the Board as required in NAC 641C.285;
- or

(d) Knowingly allows a certified intern under the supervision of the licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor to violate any provision of this chapter or chapter 641C of NRS; and

2. The Board determines that the withdrawal of its approval for the licensed ***alcohol and drug abuse counselor or certified problem gambling*** counselor to supervise certified interns is appropriate under the circumstances.

**Sec. 40.** NAC 641C.300 is hereby amended to read as follows:

641C.300 1. To maintain his licensure or certification, as appropriate, a counselor must attend at least 40 hours of continuing education during the 2-year period of licensure or certification ***[§], including, without limitation:***

***(a) At least 3 hours of continuing education that pertain to ethics; and***  
***(b) At least 3 hours of continuing education that pertain to the standards of confidentiality required pursuant to NAC 641C.425 and, if applicable, the standards of confidentiality set forth in 42 C.F.R. Part 2 and the related provisions of the Health Insurance Portability and Accountability Act of 1996 set forth in 45 C.F.R. Part 160.***

2. To maintain and renew his certification as ***[an alcohol and drug abuse counselor intern,]*** a certified intern, ***the certified intern*** must attend:

***(a) At least 15 hours of training during his first 6 months of certification ***[§], including, without limitation:******  
***(1) At least 6 hours of training during the first 3 months of certification that pertain to ethics; and***  
***(2) At least 6 hours of training during the first 3 months of certification that pertain to the standards of confidentiality required pursuant to NAC 641C.425 and, if applicable, the***

*standards of confidentiality set forth in the provisions of 42 C.F.R. Part 2 and the related provisions of the Health Insurance Portability and Accountability Act of 1996 set forth in 45 C.F.R. Part 160;*

- (b) A least 10 hours of training during his second 6 months of certification; and
- (c) At least 20 hours of training during each subsequent year of certification.

*3. A counselor or certified intern shall submit to the Board a certificate of completion of any hours of continuing education or training completed by the counselor or certified intern pursuant to subsections 1 or 2.*

*4. If a certified intern attends any hours of training to satisfy the hours of training required pursuant to subsection 2, the certified intern may not apply the same hours of training toward:*

- (a) A degree at an accredited college or university necessary to qualify for initial licensure or certification as a counselor; or*
- (b) For licensed or certified alcohol and drug abuse counselors, the hours of supervised counseling of drug and alcohol abusers considered as completed pursuant to NAC 641C.205.*

*5. A counselor who takes a program of continuing education which presents the same material that he took during the previous 2-year period will not get credit for taking the subsequent program of continuing education.*

*[4.] 6. To maintain his certificate as a supervisor of certified interns, a licensed **alcohol and drug abuse counselor or certified problem gambling** counselor must attend at least 10 hours of continuing education that pertain to counseling, supervision, ethics and Nevada law during the 2-year period of certification. These hours may be included in the hours required to maintain his license as a counselor pursuant to subsection 1.*

**[5.] 7.** A counselor is subject to disciplinary action by the Board if he:

- (a) Fails to provide to the Board information regarding his participation in a program of continuing education within 30 days after receiving a request from the Board; or
- (b) Submits to the Board false or inaccurate information regarding his participation in a program of continuing education.

**Sec. 41.** NAC 641C.305 is hereby amended to read as follows:

641C.305 1. An application for the renewal of a license or certificate as ~~fan alcohol and drug abuse~~ a counselor must be accompanied by an affidavit evidencing the completion by the counselor of at least the minimum number of required hours of continuing education during the 2 years immediately preceding the date of the application. The Board will randomly select such affidavits to verify the authenticity of the information set forth in the affidavit.

2. A counselor shall maintain sufficient documentation verifying the information which he includes in his affidavit relating to his continuing education for at least 3 years after the date on which the affidavit is executed. A counselor will not be given credit for any hours of continuing education that are not supported by documentation.

**Sec. 42.** NAC 641C.320 is hereby amended to read as follows:

641C.320 1. Before the Board will approve, or a committee of the Board may recommend approval of, a course or program of education as a course of continuing education, the Board or committee must be satisfied that the course or program of education:

- (a) Will be taught by a competent instructor as demonstrated by the educational, professional and teaching experience of the instructor;
- (b) Contains current and relevant educational material which concerns ~~alcohol~~ :

(1) *Alcohol* and drug abuse and is applicable to the practice of counseling alcohol and drug abusers; *or*

(2) *Problem gambling and is applicable to the practice of counseling problem gamblers;*

- (c) Is of professional quality;
- (d) Is appropriately designed for instructional purposes; and
- (e) Includes a written evaluation, to be completed by each counselor taking the course, of the content and presentation of the course or program and the relevance of the course or program to continuing education.

2. The Board will consider a course or program of education presented in the form of lectures, seminars, workshops, academic courses at an institution of higher education ~~[,]~~ *or* correspondence courses. ~~[that do not lead to]~~ *The Board will not approve a course or program of education for the purposes of continuing education if the hours of education that make up the course or program constitute the same hours that are applied toward the completion of a degree [and] or on-the-job training. [as being appropriately designed for instructional purposes.]*

3. A provider of a course or program of education is responsible for the format and presentation of the course or program. A provider of a course or program of education that has been approved by the Board as a course of continuing education may restrict the format in which the material in the course or program is presented, except that if the restriction of the format in which the material is presented changes the nature or content of the course or program of education, the Board may withdraw its approval of the course or program and, if the approval of the course or program is withdrawn, a counselor will not be given credit for any hours of continuing education obtained in that course or program of education.

4. Except as otherwise provided in this section, a course or program of education presented or approved by the National Association of Alcoholism and Drug Abuse Counselors, the Health Division of the Department of Human Resources or the Addiction Technology Transfer Center will be deemed as being approved as a course of continuing education.

5. Except as otherwise provided in this section, a course or program of education related to alcohol and drug abuse counseling, addiction, codependency or other issues related to the practice of counseling alcohol and drug abusers *or a course or program of education related to problem gambling counseling or other issues related to the practice of counseling problem gamblers* will be deemed as being approved by the Board as a course of continuing education if the course or program of education has been approved by:

- (a) The Board of Psychological Examiners;
- (b) The Board of Examiners for Marriage and Family Therapists;
- (c) The Board of Examiners for Social Workers;
- (d) The Board of Medical Examiners;
- (e) The State Board of Osteopathic Medicine;
- (f) The State Board of Nursing; ~~[or]~~
- (g) *The National Council on Problem Gambling, Inc.; or*
- (h) Any other similar occupational licensing board in another state, territory, protectorate or the District of Columbia.

**Sec. 43.** NAC 641C.400 is hereby amended to read as follows:

641C.400 1. The status of a person as a licensed or certified counselor or a certified intern must not be used to support any claim, promise or guarantee of successful service, nor may the possession of a license or certificate issued by the Board be used to imply that a counselor or

certified intern to whom that license or certificate was issued has competence in another profession.

2. A counselor or certified intern shall not misrepresent, directly, indirectly or by implication, his own professional qualifications, affiliations and licenses, or the qualifications, affiliations or licenses of the institutions and organizations with which he is associated. A counselor or certified intern shall provide accurate information concerning his credentials, education, training and experience upon the request of a client or potential client. If a counselor or certified intern holds more than one occupational license or certificate, the counselor or certified intern shall disclose to his client orally and in writing which of the licenses or certificates apply to the service he is rendering to the client. If a counselor or certified intern is providing services that are not services related to the practice of counseling alcohol and drug abusers ~~H~~ or the practice of counseling problem gamblers, the counselor or certified intern must disclose to the client orally and in writing the type of service that is being provided and that the service is not within the scope of the practice of counseling alcohol and drug abusers ~~H~~ or the practice of counseling problem gamblers.

**Sec. 44.** NAC 641C.405 is hereby amended to read as follows:

641C.405 A counselor or certified intern:

1. Shall not misrepresent, in advertising or otherwise, his education, training, type of license or certificate, qualifications, competence or service, or the results to be achieved if he provides service to a client.
2. Shall not engage in the practice of counseling alcohol and drug abusers *or the practice of counseling problem gamblers* while he is impaired by:
  - (a) Alcohol, drugs or any other chemical; or

(b) A mental or physical condition that prevents him from safely engaging in the practice of counseling ~~to~~ alcohol and drug abusers ~~to~~ *or the practice of counseling problem gamblers.*

3. Shall not use his relationship with a client to further his own personal, religious, political or business interests.

4. Shall set and maintain professional boundaries with clients, interns and persons with whom he works.

5. Shall not give or receive, directly or indirectly, a fee, commission, rebate or other compensation for professional services that he has not actually and personally provided.

6. Shall not knowingly offer service to a client who is receiving treatment from another counselor or certified intern, or a licensee or holder of a certificate issued by any other similar board, without prior consultation between the client and the other counselor, certified intern, licensee or holder of a certificate.

7. Except as otherwise provided in subsection 8, shall not disparage the qualifications of any colleague.

8. Shall report to the Board any unlicensed, unauthorized, unqualified or unethical practice of counseling alcohol and drug abusers *or practice of counseling problem gamblers* that is occurring.

9. Shall not attempt to diagnose, prescribe for, treat or provide advice for any problem which is outside of his field of competence, the scope of the practice of counseling alcohol and drug abusers, *the scope of the practice of counseling problem gamblers* or the scope of his license or certificate.

10. Shall base his practice upon the recognized knowledge relevant to *the practice of counseling* alcohol and drug ~~abuse-counseling.] abusers or the practice of counseling problem gamblers.~~

11. Shall critically examine and keep current with emerging knowledge relevant to the practice of counseling alcohol and drug abusers ~~.] or the practice of counseling problem gamblers.~~

12. Based upon recognized knowledge and standards for the practice of counseling alcohol and drug abusers ~~.] or the practice of counseling problem gamblers,~~ shall prepare and maintain in a timely manner a record for each of his clients which:

- (a) Sets forth his assessment of the problems of the client, plan of action for the client, course of treatment to that client and progress notes regarding the course of treatment of the client; and
- (b) Includes copies of other relevant documentation, including, without limitation:
  - (1) All documents relating to the informed consent given by the client;
  - (2) All documents relating to the release of information regarding the client; and
  - (3) All other legal documents regarding the client.

→ As used in this subsection, “assessment” means an evaluation of the patterns of substance abuse and associated impairments in functioning of a client that is based upon comprehensive biopsychosocial information about the client ~~.] or the patterns of problem gambling and associated impairments in functioning of a client that is based upon comprehensive biopsychosocial information about the client.~~

13. Shall complete and submit any reports required by this chapter and chapter 641C of NRS, or pursuant to any rule, order or instruction of a court of competent jurisdiction in a timely manner.

14. Shall comply with the provisions of this chapter and chapter 641C of NRS and all other applicable federal laws and regulations.

15. Shall not authorize a person under the supervision of the counselor or certified intern to perform services that are outside of the scope of the license, certificate, training or experience of the person performing the services, or allow such a person to hold himself out as having expertise in a field or activity in which that person is not qualified.

16. Shall notify the Board in writing within 10 days after:

(a) An action is taken against any license, certification, registration or other credential held by the counselor or certified intern that was issued by another state or territory of the United States;

(b) A criminal charge is filed against the counselor or certified intern;

(c) The counselor or certified intern is convicted of a criminal offense, other than a traffic offense which is a misdemeanor that does not involve alcohol or controlled substances;

(d) A civil action, including, without limitation, an action for malpractice, is filed against the counselor or certified intern; or

(e) A settlement or judgment is made in any civil action, including, without limitation, an action for malpractice, in any case filed against the counselor or certified intern for any act relating to the practice of counseling alcohol and drug abusers ~~H~~ or the practice of counseling problem gamblers.

**Sec. 45.** NAC 641C.410 is hereby amended to read as follows:

641C.410 1. A counselor or certified intern shall serve his clients with professional skill and competence.

2. If a counselor or certified intern must act on behalf of a client who has been declared to be incompetent or if a client is otherwise found by the Board to be incapable of acting in his own best interest, the counselor or certified intern shall safeguard the interests and rights of that client.

3. If another person has been legally authorized to act on behalf of an incompetent client, a counselor or certified intern shall deal with the legal representative of the client in accordance with the best interest of the client.

4. A counselor or certified intern shall not practice, condone, facilitate or collaborate with any form of discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, social, economic, health or marital status, political belief, diagnosis or physical disability, or on the basis of any preference or personal characteristic, condition or status of a person.

5. A counselor or certified intern shall not misrepresent to a client the efficacy of his service or the results to be achieved.

6. A counselor or certified intern shall apprise each of his clients of the risks, rights, opportunities and obligations, financial or otherwise, associated with the provision of services to the client for counseling for alcohol and drug abuse **[.] or problem gambling.**

7. A counselor or certified intern shall seek the advice and counsel of his colleagues and supervisors when such a consultation is in the best interest of the client.

8. A counselor or certified intern shall terminate service to a client and a professional relationship with a client when the service and relationship are no longer required or no longer serve the needs of the client.

9. A counselor or certified intern shall not withdraw his counseling services precipitously, except under unusual circumstances and after giving careful consideration to all factors in the situation and taking care to minimize possible adverse effects to the client.

10. A counselor or certified intern who anticipates the termination or interruption of service to a client shall notify the client as promptly as possible and seek the transfer, referral or continuation of service in relation to the needs and preferences of the client.

11. A counselor or certified intern shall not influence or attempt to influence a client in any manner which could be reasonably anticipated in his deriving benefits of an unprofessional nature from the client during the time that the client is receiving professional services from the counselor or certified intern and for 2 years after the termination of those services.

12. Throughout the period of treatment of a client and for the 2 years immediately following the termination of the professional relationship between the client and the counselor or certified intern treating the client, the counselor or certified intern shall not:

- (a) Enter into a close personal relationship with the client, including, without limitation, sponsorship of the client in a group for self-help, or a romantic or sexual relationship;
- (b) Enter into, or attempt to enter into, a financial relationship with the client that is unrelated to a primary prevention service or a clinical service for ~~abuse of alcohol and other drugs;~~ *treatment for alcohol and drug abuse or treatment for problem gambling;* or
- (c) Enter into a romantic or sexual relationship with any person who was in a romantic or sexual relationship with the client during the time that the counselor or certified intern was providing primary prevention service or clinical service to the client.

13. Within the 2 years immediately following the termination of a professional relationship with, internship for or supervision of a client, certified intern or other person, a counselor or

certified intern shall not solicit or enter into a dual relationship with the client, certified intern or other person if it is foreseeable that such a relationship would harm or exploit the client, certified intern or other person.

**Sec. 46.** NAC 641C.415 is hereby amended to read as follows:

641C.415 A person who is providing a clinical service for ~~the abuse of alcohol and other drugs~~ **treatment for alcohol and drug abuse or treatment for problem gambling** that is subject to the jurisdiction of the Board, other than a service for civil protective custody, may provide that service only with the informed consent of the client who will be receiving that service.

**Sec. 47.** NAC 641C.425 is hereby amended to read as follows:

641C.425 1. A **licensed or certified alcohol and drug abuse counselor** or certified **alcohol and drug abuse counselor** intern shall ~~;~~  
~~(a) Maintain~~ **maintain** the confidentiality of information subject to the standards of confidentiality set forth in the provisions of 42 C.F.R. Part 2 in compliance with those provisions. Failure by a **licensed or certified alcohol and drug abuse counselor** or certified **alcohol and drug abuse counselor** intern to maintain the confidentiality of information in accordance with this section and 42 C.F.R. Part 2 is a ground for disciplinary action by the Board against the **licensed or certified alcohol and drug abuse counselor** or certified **alcohol and drug abuse counselor** intern.

~~[(b) Inform]~~

2. **A certified problem gambling counselor or certified problem gambling counselor intern shall maintain the confidentiality of information subject to standards of confidentiality that are equivalent to the standards set forth in the provisions of 42 C.F.R. Part 2 for the confidentiality of alcohol and drug abuse patient records. Failure by a certified problem**

*gambling counselor or certified problem gambling counselor intern to maintain the confidentiality of information in accordance with this section is a ground for disciplinary action by the Board against the certified problem gambling counselor or certified problem gambling counselor intern.*

**3. A counselor or certified intern shall inform** and obtain the authorization of a client if:

**[¶] (a)** The counselor or certified intern intends to record any interview with the client;

or

**[¶] (b)** A person other than the counselor or certified intern will be observing an interview between the counselor or certified intern and the client.

**[¶] 4.** A counselor or certified intern shall ensure that he informs his clients about the limits of confidentiality.

**[¶] 5.** Except as otherwise provided by state or federal law, a counselor or certified intern shall not communicate any information contained in the confidential record of a client with any other person without the consent of the client. Except as otherwise prohibited by federal law, if a counselor or certified intern determines, based on the information contained in the confidential file of a client, that a clear and immediate danger to a person or to society exists, the counselor or certified intern may release that information only to members of the family of the client, other professional workers or public authorities.

**Sec. 48.** NAC 641C.430 is hereby amended to read as follows:

641C.430 If a counselor or certified intern becomes aware that a client is receiving treatment for ~~the abuse of alcohol or other drugs~~ *alcohol and drug abuse or treatment for problem gambling* from another person or organization, or is receiving treatment for any other condition that could affect the treatment that the counselor or certified intern is or would provide

to the client, the counselor or certified intern shall not provide that treatment to the client without the coordination of care with the other person or organization providing care to the client.

**Sec. 49.** NAC 641C.440 is hereby amended to read as follows:

641C.440 1. Any violation of this chapter by a counselor or certified intern constitutes unprofessional conduct and subjects the counselor or certified intern to disciplinary action by the Board.

2. If a counselor or certified intern violates any provision of this chapter or engages in any other kind of unprofessional conduct while his license or certificate is in effect, the Board will take disciplinary action against the counselor or certified intern, including, without limitation, taking action against the counselor or certified intern after his license or certificate has expired or been suspended.

3. If a board or entity in this state or in another state which has issued a license, certificate, registration or other credential to a counselor or certified intern for the practice of counseling alcohol and drug abusers, *the practice of counseling problem gamblers* or a related field revokes or suspends the license, certificate, registration or other credential, or takes any other disciplinary action against the counselor or certified intern, the revocation, suspension or disciplinary action is a ground for disciplinary action by the Board against the counselor or certified intern for unprofessional conduct.

4. The failure of a counselor or certified intern to comply with a stipulation, agreement, advisory opinion or order issued by the Board constitutes unprofessional conduct and is a ground for disciplinary action by the Board against the counselor or certified intern.

**Sec. 50.** NAC 641C.445 is hereby amended to read as follows:

641C.445 1. For the purposes of subsection 4 of NRS 641C.700, the Board will interpret the term “professional incompetence” to mean a lack of knowledge, skill or ability in discharging a professional obligation, and ~~[includes,]~~ to include, without limitation, malpractice, ***, negligence*** and gross negligence.

2. As used in this section:

(a) “Gross negligence” means conduct in the practice of counseling alcohol and drug abusers ***or the practice of counseling problem gamblers*** which represents an extreme departure from the standard of care required from a counselor or certified intern under the circumstances.

(b) “Malpractice” means conduct in the practice of counseling alcohol and drug abusers ***or the practice of counseling problem gamblers*** which falls below the standard of care required from a counselor or certified intern under the circumstances.

(c) ***“Negligence” means conduct in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers which represents a departure from the standard of care required from a counselor or certified intern under the circumstances.***

**Sec. 51.** NAC 641C.450 is hereby amended to read as follows:

641C.450 For the purposes of subsection 4 of NRS 641C.700, the Board will consider the following acts by a counselor or certified intern to constitute professional incompetence:

1. Performing services for alcohol and drug abuse counseling ***or problem gambling counseling*** as a certified intern without being enrolled in course work as required by this chapter and chapter 641C of NRS.

2. Performing services for alcohol and drug abuse counseling ***or problem gambling counseling*** as a counselor or certified intern under a license or certificate that has lapsed or been deactivated.

3. Failing to cooperate with any investigation of a complaint filed against the counselor or certified intern, including, without limitation, denying or failing to cooperate with a request for records made by the Board.

**Sec. 52.** NAC 641C.520 is hereby amended to read as follows:

641C.520 ~~[After the entry of an appearance by an attorney for a party in a proceeding before the Board, all notices, pleadings and orders to be served thereafter on the party represented by the attorney must be served upon the attorney, and such service is, for all purposes, valid service on the party which the attorney represents.]~~

**1. Except as otherwise provided in subsection 2, a party may appear at a hearing in person or by an attorney.**

**2. A party shall attend a hearing on the merits in person unless the presiding officer waives the requirement of the attendance of the party.**

**3. In addition to any other disciplinary action, if a party who is required to attend a hearing in person fails to do so without having obtained a waiver of the requirement of his attendance pursuant to subsection 2, the Board may:**

**(a) Determine that his failure to attend the hearing in person shall be deemed:**

**(1) An admission of all matters and facts contained in the record with respect to the party; and**

**(2) A waiver of the right to an evidentiary hearing; and**

**(b) Take action based upon the admission or upon any other evidence, including affidavits, without any further notice or a hearing.**

**4. If a party retains an attorney to represent him before the Board, the attorney shall so notify the Board not later than 10 days after he is retained. Thereafter:**

- (a) The attorney shall sign all motions, oppositions, notices, requests and other papers, including requests for subpoenas; and*
- (b) The Board will serve all notices, motions, orders, decisions, and any other papers or pleadings upon the attorney.*

**5. An attorney appearing as counsel in any proceeding must be an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he must be otherwise authorized to practice law in this state.**

**Sec. 53.** NAC 641C.550 is hereby amended to read as follows:

641C.550 1. A pleading in which a party prays for affirmative relief, excluding an application, complaint or answer but including a request for a declaratory order, an advisory opinion or the adoption, amendment or repeal of any regulation of the Board, must be styled a “petition.”

2. A petition must contain the full name and address of the petitioner and be signed by the petitioner.

**3. Except as otherwise provided in NRS 233B.120, a petition filed pursuant to NRS 233B.120 may be processed as an informal complaint pursuant to NAC 641C.555.**

**Sec. 54.** NAC 641C.555 is hereby amended to read as follows:

641C.555 1. A person may file an accusation with the Board concerning the acts or services provided by a counselor or certified intern. The Board will initially consider any accusation regarding a counselor or certified intern as an informal complaint. Such an informal complaint filed with the Board must be on a form provided by the Board. A complainant shall include in his informal complaint information that is sufficiently detailed so as to enable the

respondent to prepare a response. If a complainant is the client of and is complaining about his treatment by a counselor or certified intern, the Board will provide the complainant with a form for a limited waiver of confidentiality regarding his records which the complainant must sign and return to the Board. Such an informal complaint will not be further reviewed or processed by the staff or legal counsel until the signed limited waiver is received by the staff.

2. Upon receipt of an informal complaint, the staff shall examine the complaint to determine whether it:

- (a) Has been properly verified; and
- (b) Alleges sufficient facts to warrant further proceedings.

3. If the Board's staff determines that the informal complaint against a counselor or certified intern has been properly verified and alleges sufficient facts to warrant further proceedings, the staff shall notify the respondent by sending a copy or summary of the informal complaint to the counselor or certified intern by certified mail. The notification must set forth the potential violations of a provision of this chapter or chapter 641C of NRS arising in the informal complaint and request a response for the review by the Board before a hearing is set. The transmission of the copy or summary of the informal complaint will be deemed to be a notice of intended action pursuant to subsection 3 of NRS 233B.127. *Service of the copy or summary of the informal complaint shall be deemed to be complete when a true copy of the document is deposited in the United States mail, postage prepaid and addressed to the last known address on record with the Board of the person to be served.*

4. Upon the receipt of a copy or summary of an informal complaint that has been filed against him, a counselor or certified intern shall submit to the Board a written response to the informal complaint within 15 days after the date on which the informal complaint was served. A

response to an informal complaint must respond to the allegations made in the informal complaint and be accompanied with all documentation that would be useful to the staff and legal counsel in their review of the allegations made in the informal complaint and the responses made by the counselor or certified intern to those allegations. Failure by a counselor or certified intern to cooperate with the Board during an investigation of an informal complaint, including, without limitation, failing to timely respond to the Board regarding a copy or summary of the informal complaint sent to the counselor by the staff pursuant to this subsection is a ground for disciplinary action by the Board against the counselor or certified intern.

**[4.] 5.** If a counselor or certified intern fails to respond as required pursuant to subsection **[3.] 4**, he shall be deemed to have admitted the allegations in the informal complaint. Based on these admissions, the Board may impose appropriate discipline on the counselor or certified intern at the hearing on the informal complaint.

**[5.] 6.** In cases where a response is filed as required pursuant to subsection **[3.] 4**, the staff and legal counsel shall review the informal complaint and the responses made thereto, may enlist the aid of a member of the Board or other qualified persons in such review and may take any other reasonable action necessary to further the review. After their review of the informal complaint and the responses made thereto, the staff and legal counsel may:

- (a) Investigate the allegations and employ such people as they deem necessary to further the investigations;
- (b) Consult with experts in the appropriate field, including, without limitation, employing such persons for the purposes of an investigation or a hearing;
- (c) Investigate new leads and allegations that may come to their knowledge in the course of the investigation;

(d) Enlist the aid of a member of the Board or other qualified person in the conduct of the investigation; and

(e) Take any other reasonable action necessary to further the investigation.

**[6.] 7.** If the staff and the legal counsel determine that the preliminary information from its investigation of an informal complaint reasonably indicates that a program in which a counselor or certified intern is employed or otherwise treating clients may have also violated any statutes or regulations applicable to the operation of the program, the staff and legal counsel may:

(a) Coordinate with and seek the assistance of the Health Division of the Department of Human Resources in the investigation of the alleged violations; and

(b) Request the Health Division to share with the staff and legal counsel any findings made by and information in the possession of the Division, to the fullest extent allowable under 42 C.F.R. Part 2.

**[7.] 8.** During an investigation of an informal complaint, the staff, legal counsel or investigator, if any, may demand that a counselor or certified intern produce his records or other evidence for inspection or copying, with or without prior notice to the counselor or certified intern, and with or without a subpoena. A counselor or certified intern shall not deny any such request for records or other evidence if the record or other evidence is not subject to the provisions of 42 C.F.R. Part 2. If a counselor or certified intern refuses or fails to cooperate with a request for records in violation of this section, the Board may immediately suspend his license or certificate until the counselor or certified intern complies with the request for records or other evidence. If the counselor or certified intern continues to refuse or fail to cooperate with a request for records or other evidence in violation of this section, the Board may take such further disciplinary action against the counselor or certified intern as the Board determines necessary.

**[8.] 9.** If the staff, legal counsel or investigator, if any, determines that a specific record or other specific evidence is material to or necessary for an investigation, the staff, legal counsel or investigator may remove the record or evidence and provide a copy of the record or evidence to the respondent. If a record or other evidence can be readily copied at the location where the record or evidence is located, the staff, legal counsel or investigator shall make a copy of the record and evidence at that location. If a record or other evidence cannot be readily copied at the location where the record or evidence is located, the staff, legal counsel or investigator may remove the record or evidence from that location to copy the record or evidence. If the staff, legal counsel or investigator removes a record or other evidence to be copied, the staff, legal counsel or investigator shall provide the person to whom the record or evidence being removed belongs with a receipt for the record or evidence and, not later than 5 business days after the record or evidence is removed, provide a copy of the record or evidence to that person.

**[9.] 10.** When an investigation of an informal complaint is complete, the staff, legal counsel and investigator, if any, shall determine whether substantial evidence exists to sustain the alleged violation of a statute or regulation set forth in the informal complaint. If the staff, legal counsel and investigator determine that no allegation of a violation of a statute or regulation set forth in the informal complaint can be sustained, the staff shall notify, in writing, the complainant and the respondent of this determination. If the staff, legal counsel and investigator determine that a violation of a statute or regulation as alleged in the informal complaint can be sustained, the legal counsel shall:

- (a) Offer mediation, settlement agreements, stipulations of facts and liability or informal hearings; or
- (b) Prepare a notice of hearing and a formal complaint.

**[H0.] 11.** A notice of hearing and a formal complaint must:

- (a) Be a plain statement of the facts and applicable provisions of statutes and regulations regarding the alleged acts of the respondent alleged to be in violation of the statutes and regulations governing the practice of counseling alcohol and drug abusers **[;]** or the practice of **counseling problem gamblers;**
- (b) Include the date, time and place that the Board will hear the matter, if this information is known at the time when the notice of hearing and a formal complaint is sent to the respondent; and
- (c) Be signed by the legal counsel and, if a member of the Board was active in the investigation, by that member of the Board.

**[H1.] 12.** The staff shall send a notice of hearing and a formal complaint prepared pursuant to subsection **[H0.] 11** to the respondent named in the notice of hearing and the formal complaint by certified mail. **Service of the notice of hearing and the formal complaint shall be deemed to be complete when a true copy of the documents are deposited in the United States mail, postage prepaid and addressed to the last known address on record with the Board of the person to be served.**

**[H2.] 13.** A respondent who receives a notice of hearing and a formal complaint must file his answer to the notice of hearing and the formal complaint not later than 15 days after the date on which the notice of hearing and the formal complaint were served. An answer to a notice of hearing and a formal complaint filed by a respondent must include a response to each allegation and statement made in the notice of hearing and the formal complaint by either admitting to or denying the allegation or statement. If the counselor or certified intern fails to file an answer as required pursuant to this subsection, he shall be deemed to have admitted each allegation and

statement contained in the notice of hearing and the formal complaint. Based on these admissions, the Board may enter a finding and impose appropriate discipline on the counselor or certified intern in the same manner as if the allegations had been proven by substantial evidence at a Board hearing held on the formal complaint.

**[13.] 14.** Not later than 10 days after the filing of the response by the respondent, the legal counsel and the respondent shall exchange a list of the evidence and witnesses that will be used at the hearing. A party may not present evidence it obtains after the date the exchange was required pursuant to this subsection unless it demonstrates to the Board that the evidence or witness was not available upon diligent investigation before the date the exchange was required and that the evidence or witness was given or communicated to the other party immediately after it was obtained.

**[14.] 15.** The Board may join two or more formal complaints into one formal complaint if:

- (a) The causes of action of each formal complaint are against the same person and deal with substantially the same or similar violations of statutes and regulations; and
- (b) The joining of the formal complaints will serve the best interest of the Board, complainants and respondent.

**Sec. 55.** NAC 641C.560 is hereby amended to read as follows:

641C.560 1. Except as otherwise provided in this subsection, the staff, legal counsel and investigator, if any, shall keep all information gathered during an investigation of a complaint confidential during the investigation. Except as otherwise provided in this section, nothing in this subsection prohibits the staff, legal counsel or investigator from:

- (a) Communicating confidential information **[H]** **to**, or otherwise cooperating **[H]** with, another agency or board that:

(1) Is investigating a person licensed or certified by the Board;

(2) Is investigating a program in which a person licensed or certified by the Board is engaging in the practice of counseling alcohol and drug abusers **[.] or the practice of counseling problem gamblers;** or

(3) Regulates or has jurisdiction over the violations of law alleged in a complaint,

→ if the confidential information to be communicated is relevant to the investigation or regulation of the person or program by the other agency or board; or

(b) Communicating confidential information with the operator of a program, or his designee, if the complaint to which the confidential information relates:

(1) Is filed against a person who is a member of the staff of that program; and

(2) Alleges the existence of a condition which poses a significant hazard to the health or safety of the clients and staff of, and the visitors to, the program.

2. Notwithstanding any provision of this section to the contrary, information which is subject to the standards of confidentiality set forth in 42 C.F.R. Part 2 may be communicated by the Board, staff, legal counsel or investigator, if any, only if such communication does not violate those standards of confidentiality.

**Sec. 56.** NAC 641C.565 is hereby amended to read as follows:

641C.565 1. A motion concerning any matter before the Board must be made in writing, unless the motion is made during the hearing on that matter. The Board may deny a motion made during a hearing if the motion could have reasonably been made before the hearing.

2. A written motion must set forth the nature of the relief sought by and the grounds for the motion.

3. A party may oppose a written motion by filing and serving a written response to the motion with the Board and all the parties to the proceeding to which the motion relates.

4. If a written response to a motion is filed pursuant to subsection 3, the party who made the motion may file and serve a written reply to the response.

5. ~~[The]~~ ***Except as otherwise provided in this section, the*** presiding officer of the Board shall rule on all written motions on a matter at or before the hearing scheduled on the matter. The presiding officer may rule on a motion without oral argument or may allow oral arguments to be made before ruling on the motion. If the presiding officer allows oral arguments on a written motion to be made, the presiding officer shall set a time and date for hearing the oral arguments.

***6. The presiding officer may require the Board to vote to decide a motion.***

**Sec. 57.** NAC 641C.585 is hereby amended to read as follows:

641C.585 1. Not less than ~~20 days before a matter is scheduled for a disciplinary hearing before the Board,~~ ***] 10 days after the filing of the response by the respondent to the formal complaint,*** a party to the matter may serve upon any other party to the matter a written demand for:

(a) Copies of all documents that are reasonably available to the other party which the other party reasonably anticipates will be used in support of his position.

(b) A written list of the names of the persons ~~whom~~ ***who*** the other party reasonably anticipates will testify at the disciplinary hearing in support of his position. The list must include the name and address of each such person and a general description of the anticipated subject matter of his testimony.

2. A party who receives a written demand for documents or information pursuant to subsection 1 shall:

(a) Respond to the written demand within 5 days after receiving the written demand; and  
(b) If, after responding to or updating a written demand, the party reasonably anticipates that other documents or witnesses will be used in support of his position, or if any of the documents or information previously provided changes, promptly supplement and update his response to the written demand.

3. If a party fails to provide any documentation or information in response to a written demand in violation of the provisions of this section, the presiding officer of the Board ~~[may]~~ will exclude the undisclosed document or the testimony of the witness at the hearing ~~H.~~, unless *the party demonstrates to the Board that the evidence or witness was not available upon diligent investigation before the date the exchange was required and that the evidence or witness was given or communicated to the other party immediately after it was obtained.*

4. Except as otherwise required by law, discovery may only be done in accordance with the provisions of this section.

**Sec. 58.** NAC 641C.595 is hereby amended to read as follows:

641C.595 ~~H.~~ If a party in a matter before the Board fails to appear at a hearing scheduled for the matter and no continuance for the hearing has been granted, the Board may hold the hearing without the absent party, hear the testimony of the witnesses who have appeared, and consider and dispose of the matter based on evidence presented.

~~12. If the Board has disposed of a matter pursuant to subsection 1 and the absence of the party was because of an accident, sickness or other reasonable and unforeseeable cause, the party may, not later than 10 days after the date on which the hearing was scheduled, apply to the Board to reopen the proceedings and rehear the matter. Upon finding sufficient and reasonable cause, the Board will set a new time and place for a rehearing on the matter and give the parties notice~~

~~of the rehearing. A witness who testified at the previous hearing is not required to appear at the rehearing unless he is directed to do so by the Board.]~~

**Sec. 59.** NAC 641C.600 is hereby amended to read as follows:

641C.600 **1.** The presiding officer of the Board in a hearing shall call the hearing to order, take the appearances of witnesses and act upon any pending motions or petitions. ~~[Upon the completion of this action by the presiding officer of the Board, each party may make an opening statement.]~~

**2.** *The notice of hearing, any petition, answer, response or written stipulation and, if the hearing concerns a disciplinary proceeding, the complaint or any other responsive pleading become a part of the record without being read into the record, unless a party requests that the document be read into the record.*

**3.** *The legal counsel shall present the evidence for the Board first and, if the Board allows closing arguments, shall present the closing arguments for the Board last.*

**4.** *Unless otherwise ordered by the presiding officer, and except as otherwise provided in this section, the order of presentation is as follows:*

*(a) Opening statement by the legal counsel.  
(b) Opening statement by the respondent or the attorney for the respondent who may choose to make the opening statement at the beginning of the respondent's case.*

*(c) For each witness offered by the legal counsel:  
(1) Direct examination by the legal counsel;  
(2) Cross-examination by the respondent or the attorney for the respondent;  
(3) Redirect examination by the legal counsel;  
(4) Recross-examination by the respondent or the attorney for the respondent; and*

*(5) Examination by the members of the Board.*

*(d) For each witness offered by the respondent, the same order as for witnesses offered by the legal counsel.*

*(e) If applicable, closing arguments by the respondent or the attorney for the respondent.*

*(f) If applicable, closing arguments by the legal counsel.*

*5. A member of the Board may, at any time during the hearing:*

*(a) Question a witness; and*

*(b) Request or allow additional evidence, including, additional testimony or documentary evidence.*

*6. A consolidated hearing before the Board will proceed in the same manner as described in this section with the order of the parties and evidence to be determined in the discretion of the presiding officer.*

*7. Posthearing briefs may be allowed by the presiding officer or upon a majority vote of the members of the Board. If such briefs are allowed, the Board will establish a time by when such briefs must be submitted.*

**Sec. 60.** NAC 641C.515 and 641C.610 are hereby repealed.

**Sec. 61.** The amendatory provisions of section 30 of this regulation expire by limitation on March 30, 2004.

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## **TEXT OF REPEALED SECTIONS**

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### **641C.515 Representation of parties.**

1. A person may appear in person before the Board or may be represented by an attorney.
2. An attorney who appears as counsel on behalf of a party in a proceeding before the Board must be an attorney at law who is admitted to practice law and is in good standing before the Supreme Court of Nevada. An attorney who is not admitted to practice law before the Supreme Court of Nevada may appear as counsel if he is associated with an attorney who is admitted and entitled to practice law before the Supreme Court of Nevada.

**641C.610 Consolidation.** The presiding officer of the Board may consolidate two or more matters into one hearing if it appears that the issues involved in each of the individual matters are the same and the interests of the parties will not be prejudiced by such a consolidation.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R157-03**

The Board of Examiners for Alcohol, Drug and Gambling Counselors adopted regulations assigned LCB File No. R157-03 which pertain to chapter 641C of the Nevada Administrative Code on December 3, 2003.

**Notice date:** 10/30/2003  
**Hearing date:** 12/3/2003

**Date of adoption by agency:** 12/3/2003  
**Filing date:** 12/16/2003

**INFORMATIONAL STATEMENT**

1. Public comments were solicited and received in written and oral format. Interested parties did and can receive a copy of the minutes and drafts of the proposed regulations by requesting them from the Board of Examiners for Alcohol and Drug Abuse Counselors.
2. The Board of Examiners held the following workshops:  
August 27, 2003 a workshop was held and 14 members of the public were in attendance.  
October 30, 2003 a workshop was held and 8 members of the public were in attendance.  
December 3, 2003 a workshop and the public hearing were held and 19 members of the public were in attendance.
3. Comments were solicited by posting the information on the Board's website, and by mailing information to all county libraries, the State Library, Legislative Council Bureau, treatment programs and all interested individuals. This information is available from the Board of Examiners.  
The verbal comments focused on the increase in fees, the fingerprint requirements, continuing education requirements, requirements for the problem gambling counselors and whether nicotine addiction needed to be specified under the scope of practice.  
The Board received written comments regarding nicotine and tobacco.
4. NAC 641C was adopted as drafted by LCB with one additional change. The Board voted unanimously to incorporate this change. Copy attached
5.
  - a. There is a financial impact on the licensed and certified personal.  
Beneficial Effects of Fee Increases: This will allow the Board to expand, streamline and economize on the disciplinary process, assist board staff with the growing number of licensed and certified personnel  
Adverse Effects: an increase in the cost of doing business  
Long Term: More efficient disciplinary process for a long-term savings to the Board.  
Immediate Effects: Same
  - b. No foreseeable negative impact noted

6. Fees received by the Board cover all costs
7. No proposed regulations overlap or duplicate existing regulations

None that the Board is aware of

9. The increase in fees should net approximately \$26,000. The fees will be used to offset the expenses accrued by the Board

If you have additional questions, please contact me at 246-2260. Thank you for your time and consideration in this matter.