

LCB File No. R097-00

**PROPOSED REGULATION OF THE BOARD OF EXAMINERS
FOR ALCOHOL AND DRUG ABUSE COUNSELORS**

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of hearing for the amendment, adoption and repeal of regulations
of the Board of Examiners for Alcohol and Drug Counselors

The Board of Examiners for Alcohol and Drug Counselors will hold a teleconference public hearing at 9:00 A.M. on June 29, 2000, at the University of Nevada Reno, E.J. Cain Building, Room 202 Reno and at the University of Nevada Las Vegas, Building CBC, Room C328, Las Vegas. The purpose of the hearing is to receive comments from all interested persons regarding the amendment, adoption and repeal of regulations that pertain to chapter 641C of the Nevada Administrative Code.

Persons wishing to comment upon the proposed action of the Board of Examiners for Alcohol and Drug Counselors may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Board of Examiners for Alcohol and Drug Counselors. Written submissions must be received by Board of Examiners for Alcohol and Drug Counselors on or before June 16, 2000. If no person who is directly affected by the proposed action(s) appears to request time to make an oral presentation, the Board of Examiners for Alcohol and Drug Counselors may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted, amended or repealed will be on file at the State Library, 100 N. Stewart St., Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted, amended or repealed will be available at the Board of Examiners for Alcohol and Drug Counselors, 401 Dayton Valley Rd., Suite B, Dayton, NV 89403, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at [HTTP://WWW.LEG.STATE.NV.US](http://www.leg.state.nv.us). Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the board, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

University of Nevada/Reno, Reno

University of Nevada/Las Vegas, Las Vegas
Kinhead building, 505 E. King St., Carson City
Rehabilitation Office, 1325 Corporate Blvd., Reno
Legislative Council Bureau, Grant Sawyer Building, 555 E. Washington St., Las Vegas
Department of Health, Bureau of Alcohol and Drug Abuse Office, 1830 E. Sahara, Las Vegas

Note: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Board, in writing, at 401 Dayton Valley Rd, Suite B, Dayton, Nevada 89403, or call Sharon Atkinson at 775-246-2260, no later than fifteen working days prior to the meeting.

ALCOHOL AND DRUG COUNSELORS

TELECONFERENCE MEETING

DATE: June 29, 2000
LOCATION: University of Nevada/Reno
Edward Cain Building RM 202
Reno, NV
and
University of Nevada/Las Vegas
Building CBC Room C 328
Las Vegas, NV
TIME: 9:00 a.m.

*DENOTES ITEMS THAT ACTION MAY BE TAKEN ON

**DENOTES ITEMS THAT MAYBE IN CLOSED SESSION TO CONSIDER CHARACTER
COMPETENCE, MENTAL OR PHYSICAL HEALTH OF THE PERSONNEL INVOLVED

- 1.* Welcome, Call to Order and Approve Minutes
- 2.* Public Hearing for the Amendment, Adoption and Repeal of Regulations
- 3.* Discussion and Board Decisions on Recommendations on NAC 641C
- 4.* Discussion and Board Decisions on Applications
- 5.* Discussion and Board Decisions on Board Policy and Procedures:
Parole & Probation of Applicants Applicable College Degrees Criminal History
Length of Time Out of Prison Prior to Accepting Application
Finger Print Requirements on Renewals
- 6..* Discussion and Approval of Memo Regarding NRS 641C, Grandfathering and Complaint
Procedures
- 7.* Discussion and Board Decision on Scope of Practice Issues in Regards to Judges
- 8.* Schedule Next Meeting
9. Public Comments
- 10.* Adjournment

Interested persons may present oral and/or written comments at the time and place of the meeting, or written comments may be sent no later than June 20, 2000:

Sharon Atkinson
Board of Examiners for Alcohol and Drug Abuse Counselors
401 Dayton Valley Rd., Suite B
Dayton, NV 89403

This notice has been posted in accordance with NRS Chapter 241 in the following locations:

Elko Community Health Nurse - 850 Elm Street, Elko, Nevada
Health Division - 505 E. King St., Carson City, Nevada
Rehabilitation Office - 1830 E. Sahara, Las Vegas, Nevada

Nevada State Library and Archives - 100 N. Stewart St., Carson City, Nevada
Rehabilitation Office - 1325 Corporate Blvd., Reno, Nevada
Grant Sawyer Building - 555 E. Washington Blvd., Las Vegas, Nevada
University of Nevada/Reno - E.J. Cain Building, Reno Nevada
University of Nevada/Las Vegas - Building CBC, Room 328, Las Vegas, Nevada
All county libraries

Certification on file in the office of the Board of Examiners for Alcohol and Drug Counselors in Dayton, NV. In compliance with the Americans with Disabilities Act (ADA) please contact the Board of Examiners for Alcohol and Drug Counselors, (775) 246-2260, if you are disabled or require special services to attend this meeting.

**NEW REGULATIONS FOR THE
NEVADA STATE BOARD OF EXAMINERS FOR
ALCOHOL AND DRUG ABUSE COUNSELORS**
(Version 5/23/00)

NAC ch. 641C shall be amended to add the following new language:

Section 1. *"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.*

Section 2. *"Applicant" means a person who applies for any privilege, license, approval or authority from the board.*

Section 3. *"Assessment" means an evaluation of a client's patterns of substance use and associated impairments in functioning that is based upon comprehensive biopsychosocial information.*

Section 4. *"Board" defined. "Board" means the board of examiners for alcohol and drug abuse counselors.*

Section 5. *"Client" means a natural person, couple, family, governmental agency or political subdivision of this state who receives alcohol and drug abuse counseling services.*

Section 6. *"Complainant" means any person who complains to the board of any act of another person.*

Section 7. *"Continuing education hour" means 50 minutes of instruction devoted to a program of continuing education related to the practice of alcohol and drug abuse counseling.*

Section 8. *"Counselor" means a licensed or certified counselor wherever such word is used without the modifiers "licensed" or "certified."*

Section 9. *"Detoxification" means the monitoring of a person who is at risk of suffering from the adverse physiological or psychological effects of withdrawal from alcohol or another drug to bring the person safely to a state free of the drug.*

Section 10. *"Field of social science" shall mean any program in alcohol and substance abuse counseling, psychiatry, psychology, social work, marriage and family therapy, nursing, medicine, or any other such program related to the study of the human mind and mental illness.*

Section 11. *"Respondent" means a person against whom any complaint is filed or investigation is initiated.*

Section 12. *"Treatment" means the care of substance use disorders through detoxification, medication or counseling, or any combination thereof.*

Section 13. *If any provision of this chapter or any application thereof to any person, thing or circumstance is held invalid, the board intends that such invalidity not affect the provisions or applications to the extent that they can be given effect.*

Section 14. *Any time a person provides alcohol and drug abuse counseling services, the person shall carry evidence that is satisfactory to the board that he holds a license or certificate issued by the board.*

Section 15. *A license or certificate or a notarized copy thereof issued by the board must be prominently displayed at all times at the primary place of employment or practice of the licensee.*

Section 16. *An internship certificate issued by the board must be prominently displayed at all times at each location approved by the board for the internship.*

Section 17. *1. A copy of the list of names and professional addresses of each person licensed pursuant to this chapter may be obtained from the board upon written request and payment of the cost of reproduction.*

2. Each licensee shall furnish the board with notice of his professional address within 10 days after any change of such address.

Section 18. *1. An applicant must file a completed application which documents that the qualifications are met for the licensure or certification for which the applicant is applying. A nonrefundable fee in the amount specified by the board will be charged to each applicant for the materials required to apply for registration or certification.*

2. For good cause, the board may allow an applicant to present material at its meeting in addition to the materials which he has previously submitted to the board.

3. By submitting his application, an applicant grants the board full authority to make any investigation or personal contact necessary to verify the authenticity of the matters and information stated within his application. If the board so requests, the applicant must supply such verification.

4. If deemed necessary, the board will appoint a subcommittee to examine an application and make recommendations for the board's action.

5. If deemed necessary, the board will require the personal appearance of the applicant. The personal appearance of the applicant may be conducted in open or closed session of the board as the board chooses.

6. A graduate of a foreign program shall submit documentation to the board that proves to the satisfaction of the board that the foreign degree is equivalent to a comparable program from a program in the United States.

Section 19. *1. Upon receiving an application for licensure or certification, the board's staff will review the application and determine whether the application satisfies all the requirements for the licensure or certification.*

2. If the application is complete and evidences satisfaction of all requirements for licensure or certification, the board's staff shall notify the applicant that the application is in order and of the next date, time, and place for the examination for that applicant.

3. *If the application is for registration as a certified intern, the board will issue evidence of registration at the time the application is approved.*

4. *The board's staff may reject an application and notify the applicant of the rejection in writing within 30 days of the receipt of the application if the applicant:*

(a) Fails to file a complete application as specified by the board;

(b) Does not meet the minimum requirements for the license or certificate for which the person is applying or the minimum requirements of the examination for the license or certification for which the person is applying;

(c) Has previously had his license or certificate revoked by the board;

(d) Has been convicted during the 2 years immediately preceding his application of any crime other than a violation of a traffic law that does not involve alcohol or a controlled substance.

5. *An applicant whose application is received less than 30 days before a regularly scheduled examination will not be allowed to sit for that examination and will be scheduled for the next following examination.*

Section 20. *The board will accept as satisfactory evidence of the age of the applicant, a copy of his birth certificate, passport, baptismal certificate, driver's license or such other documentation regarding age satisfactory to the board.*

Section 21. 1. *An applicant for licensure as a licensed counselor or for certification as a certified counselor must pass each section of an examination administered by the board with a score of at least 70%.*

2. *Except as otherwise provided in this section, an applicant who is required to pass an examination pursuant to this section must satisfy the board that he possesses the necessary requirements regarding age, citizenship, character and education before he may take the examination.*

3. *Examinations will be offered and scheduled as deemed appropriate by the board.*

4. *The board will mail the results of the written and oral examinations to the applicant at his last known address.*

5. *An applicant who fails the examination may take the examination again when it is next offered by submitting a nonrefundable fee for examination in the amount specified by the board.*

6. *An applicant who fails the examination and who does not take it when it is next offered by the board must submit a new application.*

7. *An applicant who fails the examination for licensure or certification three times may not take the examination again until the applicant has appeared before the board at its next regularly scheduled meeting. The board will examine the applicant as to his qualifications to sit for an additional examination and may condition the applicant's taking of the examination as the board deems appropriate and necessary in its discretion.*

Section 22. 1. *For counselors, an application for the renewal of an expiring license must be completed on forms supplied by the board and submitted to the board on or before the last day of the month of licensing or certification of the counselor. The renewal application must be accompanied by the renewal fee.*

2. For certified interns, an application for the renewal of a certificate must be completed on forms supplied by the board and submitted to the board no later than January 15 and July 15 of each year. The renewal application must be accompanied by the renewal fee.

3. If a complete application for renewal and the required fee are not postmarked on or before the fifteenth day of the month as set out in this section, the license becomes delinquent.

Section 23. 1. Fees and remittances to the board must be made by a 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 renewal.

3. An application for licensure on which no action has been taken by the applicant for 1 year after its receipt by the board will be considered by the board to have lapsed. The board will not refund any fee related to an application that has lapsed.

Section 24. 1. A counselor may:

(a) Provide counseling for abuse of alcohol and other drugs, which may include without limitation:

(i) Making a diagnosis or classification;

(ii) Providing a referral; or

(iii) Planning treatment;

(b) Provide counseling to a person who has a significant relationship with an identified or suspected abuser of alcohol or another drug to the extent necessary to treat or engage the identified or suspected abuser;

(c) Conduct testing for which the counselor was trained.

2. A certified intern may perform any of the services listed in subsection 1 subject to the clinical supervision and allowance of his supervisor. If a certified intern makes a diagnosis or classification under subsection 1(a)(i), the diagnosis or classification must be substantiated in the clinical record and countersigned by the supervisor.

3. The provision of counseling services to a client within this state through any means, including, without limitation, electronic means or by telephone, regardless of the location of the counselor or intern, constitutes the practice of alcohol and drug abuse counseling and is subject to the provisions of chapter 641C of NRS and any regulations adopted pursuant to that chapter.

4. A counselor may represent himself as a licensed alcohol and drug abuse counselor or use the initials "LADC" after his name if he is a licensed counselor or as a certified alcohol and drug abuse counselor if he is a certified counselor and may use the initials "CADC" after his name. A certified intern may represent himself as a certified alcohol and drug abuse intern and must assure that a client does not confuse or misunderstand that the certified intern is a counselor.

Section 25. The board shall charge and collect the following fees:

- (a) For the initial application for a license or certificate\$50
- (b) For the issuance of a provisional license or certificate\$45
- (c) For the issuance of an initial license or certificate.....\$50
- (d) For the renewal of a license or certificate for a counselor\$125
- (e) For the renewal of a certificate for a certified intern\$30

- (f) For the renewal of a delinquent license or certificate\$75
- (g) For the restoration or reinstatement of a suspended or revoked license or certificate\$300
- (h) For the issuance of a license or certificate without examination\$100
- (i) For an examination\$50
- (j) For a duplicate copy of a license or certificate\$20
- (k) For an application to deactivate a license or certificate\$50
- (l) For an application to reactivate a license or certificate for a counselor\$125
- (m) For an application to reactivate a certificate for a certified intern\$50
- (n) For the registration and approval of a continuing education program\$40

Section 26. *An applicant for licensure without examination pursuant to NRS 641C.300 must submit to the board:*

1. *A written application on a form prescribed by the board;*
2. *The applicable fee;*
3. *Proof that the license or credential issued by the other state, a territory or possession of the United States, or the District of Columbia:*
 - (a) *Is currently valid and in good standing; and*
 - (b) *Has never been suspended, revoked or otherwise restricted for any reason;*
4. *Proof that the applicant is otherwise qualified to engage in the practice of alcohol and drug abuse counseling.*
5. *The applicant under this section must take and pass the oral examination.*

Section 27. *If an applicant has had a license or credential that was issued by another state suspended, revoked, restricted, or otherwise subjected to discipline for any reason, the board will review and consider the specific facts and circumstances surrounding the suspension, revocation, restriction, or discipline and may issue or decline to issue a license to an applicant based upon its review.*

Section 28. 1. *A counselor or certified intern may have his license or certificate deactivated for a period of one year. An applicant for deactivation of his license or certificate must be in good standing with the board and not under investigation by the board and must submit to the board:*

- (a) *A written application on a form prescribed by the board; and*
- (b) *The applicable fee.*
2. *A counselor or certified intern may have his license or certificate reactivated at any time within the deactivation period. An applicant for deactivation of his license or certificate must be in good standing with the board and not under investigation by the board and must submit to the board:*
 - (a) *A written application on a form prescribed by the board; and*
 - (b) *The applicable fee.*
3. *If a license or certificate is not reactivated within the deactivation period, the license or certificate will be deemed to have expired and may only be renewed according to NRS 641C.450.*

Section 29. *1. A licensed counselor may supervise a certified intern if the licensed counselor:*

(a) Is at least 21 years of age;
(b) Is in good standing with the board and is not under investigation by the board at the time that the application to become a supervisor is submitted to or reviewed by the board;
(c) Has completed a course approved by the board for the training of supervisors; and
(d) Has been licensed by the board for at least two years and has engaged in the practice of alcohol and drug abuse counseling for at least two years.

2. A licensed counselor acting as a supervisor must not:

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

3. A licensed counselor may not serve as a supervisor for a certified intern until he has submitted an application to the board on a form provided by the board and he has received written notice from the board that his application has been granted.

4. The board will maintain a list of persons who have been approved by the board to supervise interns and will provide, upon request, a copy of the list to any person who is applying to become an intern.

5. A licensed counselor is responsible for all violations of NRS ch. 641C and these regulations which are committed by a certified intern while the certified intern is in the supervision of the licensed counselor.

6. The board will not recognize time spent by a certified intern:

(a) Under the supervision of a person who has not been approved by the board to supervise interns;

(b) In an arrangement covered by an agreement relating to the supervision of the intern which has not been approved by the board;

(c) Engaged in activity that is not the practice of alcohol and drug abuse counseling or services directly related thereto.

7. A licensed counselor shall inform the board in writing of any termination or cessation of his supervision of a certified intern within five working days after any termination or cessation.

8. For each semester during which a licensed counselor is supervising an intern, the licensed counselor is responsible to assure that the intern is enrolled in a course of education as required by NRS 641C.420(1)(e)(1) if the intern does not already possess a degree as set out in NRS 641C.420(1)(e)(2). If the applicant withdraws from courses such that he is no longer enrolled in at least three credit hours for a given semester, the applicant may not work as an intern and any hours accumulated by the intern while in such status shall not be counted toward the hours necessary to attain status as a certified or licensed counselor.

9. A certified intern must complete his education and training to become a certified or licensed counselor within ten years from the date of his initial application to become an intern.

Section 30. *1. A licensed counselor acting as a supervisor of a certified intern shall ensure that:*

(a) The work of the intern is conducted in an appropriate professional setting;

(b) The work of the intern is consistent with the standards of the profession;

- (c) The intern is assisted with the development of his professional identity;*
 - (d) The intern has gained the skills required to manage his practice;*
 - (e) The intern has gained the skills required for continuing competency;*
 - (f) The intern has gained knowledge of the laws and regulations applicable to the practice of alcohol and drug abuse counseling; and*
 - (g) The intern is familiar with the current literature concerning those areas of alcohol and drug abuse counseling relevant to his area of practice.*
- 2. A licensed counselor acting as supervisor of a certified intern shall:*
- (a) Communicate with the certified intern on an individual basis for at least one hour every week, unless the board specifically directs a different schedule or frequency for the meetings, to discuss and evaluate the performance of the intern in his practice;*
 - (b) Prepare and submit to the board interim reports to accompany the certified intern's renewal form and a final report, on forms provided by the board, concerning the progress of the intern in his practice; and*
 - (c) Be available to consult with the board concerning the record, competence in practice, emotional and mental stability or professional and ethical conduct of the intern.*
- 3. A licensed counselor acting as supervisor of a certified intern shall analyze the performance of the intern through information obtained from:*
- (a) Observation or participation in the practice of the intern at least once monthly; and*
 - (b) The notes of the intern.*
- 4. The board will, if it deems it appropriate, withdraw its approval of a licensed counselor to supervise interns if the supervisor:*
- (a) Fails to supervise an intern adequately;*
 - (b) Fails to comply with each applicable provision of a statute or regulation;*
 - (c) Fails to submit for two reporting periods the reports required regarding the progress of each intern under his supervision; or*
 - (d) Knowingly allows a certified intern to violate any provision of NRS chapter 641C or these regulations.*

Section 31. *1. A counselor must, in order to maintain his certification, attend at least 40 hours of training during the 2-year period of licensure or certification..*

2. A certified intern must, in order to maintain and renew his certification, attend at least:

- (a) Fifteen hours of training during the first 6 months of certification;*
 - (b) Ten hours of training during the second 6 months of certification; and*
 - (c) Twenty hours of training during each year of certification thereafter.*
- 3. A licensee may not take a program of continuing education which presents the same material he took during the previous 2-year period.*
- 4. A licensee is subject to disciplinary action if he:*
- (a) Within 30 days after receiving a request from the board, fails to provide to the board information of his participation in a program of continuing education; or*
 - (b) Submits to the board false or inaccurate information regarding his participation in a program of continuing education.*

Section 32. *1. An application for renewal of a license or certificate must be accompanied by an affidavit evidencing the completion of at least the minimum required continuing education hours during the 2 years immediately preceding the date of the application.*

2. The board will randomly select affidavits to verify the authenticity of the information contained therein.

3. Each licensee shall maintain sufficient documentation which verifies the information set forth in the affidavit for at least 3 years. A licensee will not be given credit for any continuing education hours that are not supported by documentation.

Section 33. *A program of continuing education must be approved by the board. The following courses and programs will be deemed unacceptable as continuing education hours:*

1. An orientation program for new employees.

2. An on-the-job training program presented by an agency whose primary purpose is to disseminate information on the policy or procedure of the agency.

3. An audio/video learning tape or home study course for which there is no independent verification of successful completion.

4. A program for self-improvement.

Section 34. *1. Before the board or a committee of the board approves a course or program, the board must be satisfied that the course or program:*

(a) Will be taught by a competent instructor as demonstrated by his educational, professional and teaching experience;

(b) of professional quality;

(d) Is appropriately designed for instructional purposes;

(e) Contains current and relevant educational material concerning alcohol and drug abuse and is applicable to the practice of alcohol and drug abuse counseling;

(c) Is) Includes a written evaluation of the content and presentation of the course or program and its relevance to continuing education for each counselor to complete; and

(f) Pays the appropriate fee. Providers who are public agencies will not be required to pay the appropriate fee.

2. A course or program presented in the form of lectures, seminars, workshops, academic courses at an institution of higher education, correspondence courses that do not lead to a degree and on-the-job training programs offered by an agency will be deemed appropriately designed for instructional purposes. The provider is responsible for the format and presentation of the courses or programs and may restrict the format in which the material is presented unless otherwise required by the board.

3. All programs presented by or approved by NAADAC, the Nevada Bureau of Alcohol and Drug Abuse, or the Addiction Technology Transfer Center will be deemed approved by the board. Programs related to drug and alcohol abuse counseling, addiction, codependency, and other issues related to the practice of drug and alcohol abuse counseling approved by the following will be deemed approved by the board:

(a) The Nevada State Board of Psychological Examiners;

(b) The Nevada State Board of Examiners for Marriage and Family Therapists;

(c) The Nevada State Board of Examiners for Social Workers;

(d) The Nevada State Board of Medical Examiners;

(e) The Nevada State Board of Osteopathic Medical Examiners;

(f) The Nevada State Board of Nursing; and

(g) Any similar occupational licensing board in another state, territory, protectorate, or the District of Columbia.

4. A licensee may request the approval of a course or program which has not been submitted for approval by a provider by submitting to the board an application containing the information required by the board for its review pursuant to these regulations. The course or program is subject to the same criteria used to evaluate the course or program submitted by a provider seeking approval.

Section 35. *1. The status of a licensee or certificate holder must not be used to support any claim, promise or guarantee of successful service, nor may the license or certificate be used to imply that the holder has competence in another profession. The licensee or certificate holder shall not misrepresent, directly or by implication, his own professional qualifications, affiliations and licenses, nor those of the institutions and organizations with which he is associated. A licensee or certificate holder shall provide accurate information concerning his credentials, education, training and experience upon request from a client or potential client. If he holds more than one occupational license, he shall disclose to his client orally and in writing which of the licenses apply to the service he is rendering to that client. If a licensee is providing services that are not alcohol and drug abuse counseling services, he must disclose to the client orally and in writing the type of service that he is providing and that the service is not within the scope of the practice of alcohol and drug abuse counseling.*

2. A licensee or certificate holder shall not misrepresent, in advertising or otherwise, his education, training, type of license or certificate, qualifications, competence, service or the results to be achieved.

3. A licensee or certificate holder shall not practice alcohol and drug abuse counseling while:

(a) He is impaired by alcohol, drugs or any other chemical; or

(b) He is impaired by a mental or physical condition that prevents him from practicing safely.

4. A licensee or certificate holder shall not use his relationship with a client to further his own personal, religious, political or business interests.

5. A licensee or certificate holder is responsible for setting and maintaining professional boundaries with clients, interns and persons who are supervised by him.

6. A licensee or certificate holder 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 rendered.

7. A licensee or certificate holder shall not knowingly offer service to a client who is receiving treatment from another licensee of this board or any other board without prior consultation between the client and the other licensee.

8. Except as otherwise provided in subsection 12, a licensee or certificate holder shall not disparage the qualifications of any colleague.

9. A licensee or certificate holder shall not attempt to diagnose, prescribe for, treat or advise on any problem outside his field of competence or the scope of practice for a counselor or certified intern of alcohol and drug abuse.

10. A licensee or certificate holder shall base his practice upon recognized knowledge relevant to alcohol and drug abuse counseling.

11. A licensee or certificate holder shall critically examine and keep current with emerging knowledge relevant to alcohol and drug abuse counseling.

12. A licensee or certificate holder shall report to the board any unlicensed, unauthorized, unqualified or unethical practice of alcohol and drug abuse counseling.

13. Based upon recognized knowledge and standards of practice for alcohol and drug abuse counseling, a licensee or certificate holder shall prepare and maintain in a timely manner a record regarding each of his clients which:

(a) Sets forth his assessment of the problems of the client, his plan of action for the client, his course of treatment to that client, and progress notes regarding the course of treatment of the client; and

(b) Includes, without limitation, copies of:

(1) All documents relating to the informed consent of the client;

(2) All documents relating to the release of information regarding the client; and

(3) All other legal documents regarding the client.

14. A licensee or certificate holder shall complete and submit any reports required pursuant to chapter 641C of NRS, any regulations adopted pursuant to that chapter and any order, rule or instruction of a court of competent jurisdiction in a timely manner.

15. A licensee or certificate holder shall comply with all the provisions of the statutes and regulations governing the practice of alcohol and drug abuse that are set forth in this chapter and chapter 641C of NRS and all similar federal laws and regulations.

16. A licensee or certificate holder shall not authorize a person under his supervision to perform services outside of the level of licensure, certification, training or experience of the person who is supervised or allow that person to hold himself out as having expertise in a field or activity in which he is not qualified.

17. A licensee shall notify the board in writing within 10 days after:

(a) An action is taken against a license, certification, registration or credential of the licensee issued by another state or a territory of the United States;

(b) A criminal charge is filed against the licensee;

(c) A licensee or certificate holder is convicted of a criminal offense, other than a misdemeanor traffic offense;

(d) A civil action, including, without limitation, an action for malpractice, is filed against the licensee for any act relating to the practice of alcohol and drug abuse counseling; or

(e) A settlement or judgment in a civil action, including, without limitation, an action for malpractice, in a case filed against the licensee or certificate holder for any act relating to the practice of alcohol and drug abuse counseling.

Section 36. 1. A licensee or certificate holder shall serve clients with professional skill and competence.

2. If a licensee or certificate holder must act on behalf of a client who has been declared incompetent or otherwise found by the board to be incapable of acting in his own best interest, the licensee or certificate holder 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 licensee or certificate holder shall deal with that person in accordance with the best interests of the client.*

4. *A licensee or certificate holder 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 any preference or personal characteristic, condition or status.*

5. *A licensee or certificate holder shall not misrepresent to a client the efficacy of his service or the results to be achieved.*

6. *A licensee or certificate holder shall apprise his clients of the risks, rights, opportunities and obligations, financial or otherwise, associated with the provision of alcohol and drug abuse counseling services to them.*

7. *A licensee or certificate holder shall seek advice and counsel of colleagues and supervisors whenever such consultation is in the best interest of the client.*

8. *A licensee or certificate holder 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 or interests of the client.*

9. *A licensee or certificate holder 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 licensee or certificate holder who anticipates the termination or interruption of service to a client shall notify the client promptly and seek the transfer, referral or continuation of service in relation to the needs and preferences of the client.*

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

12. *Throughout the period of treatment and for a period of 2 years after the termination of the professional relationship, a licensee or certificate holder shall not:*

(a) Enter into a close personal relationship with a current or former client, including, without limitation, sponsorship of a client who is participating in a group for self-help or any romantic or sexual relationship with a client;

(b) Enter into, or attempt to enter into, a financial relationship that is unrelated to a primary prevention service or a clinical service for abuse of alcohol and other drugs with a current or former client; or

(c) Enter into a romantic or sexual relationship with a person who was in a romantic or sexual relationship with the client at the time the service provider was providing the primary prevention service or clinical service to the client.

13. *A licensee or certificate holder shall not solicit or enter into a dual relationship with a client, certified intern or any other person who is supervised by the licensee or certificate holder if it is foreseeable that such a relationship would harm or exploit the client, certified intern or other person who is supervised within 2 years after the termination of the professional relationship, internship or period of supervision.*

Section 37.1. *The following, without limitation, shall constitute “professional incompetence” for the purposes of NRS 641C.700(4):*

- (a) Performing alcohol and drug abuse counseling services as a certified intern without being enrolled in coursework as required by statute and these regulations;*
- (b) Performing alcohol and drug abuse counseling services as a counselor or certified intern with a license or certificate that has either lapsed or has been deactivated; and*
- (c) Failure to cooperate with the investigation of a complaint, including but not limited to denial or failure to cooperate with a request for records pursuant to these regulations.*

Section 38. *A person providing a clinical service for abuse of alcohol and other drugs, other than a service for civil protective custody, may provide the service only with the informed consent of the client.*

Section 39. *A licensee or certificate holder shall:*

- 1. Inform prospective clients of financial arrangements before providing the service.*
- 2. Maintain accurate records of any fees charged to a client and of any payments made by a client.*
- 3. Make the records required pursuant to subsection 2 available to the client for review upon request.*
- 4. Not give or receive any commission or any other form of remuneration for the referral of clients from the party to whom clients are referred.*

Section 40. *A licensee or certificate holder shall:*

- 1. Practice in compliance with the standards relating to confidentiality set forth in 42 C.F.R. Part 2, independent of whether the person is providing services of a program for treatment that receives assistance from the Federal Government.*
- 2. Inform a client and obtain his authorization if:
 - (a) He intends to make a recording of an interview with the client; or*
 - (b) Another person intends to observe an interview with the client.**
- 3. A licensee or certificate holder is responsible for informing his client of the limits of confidentiality.*
- 4. Except as otherwise provided by law, information contained in a confidential record must not be communicated to others without the client's consent unless there is clear and immediate danger to some person or to society, and then only to the appropriate family members, professional workers or public authorities.*

Section 41. *A licensee or certificate holder who is aware that a client is receiving treatment for abuse of alcohol or other drugs from another person or organization or for any other condition that could affect the licensee's treatment of the client shall not provide treatment to the client without coordination of care.*

Section 42. *1. Before engaging in research, a licensee or certificate holder shall obtain the voluntary and informed consent of participants in the research without any implied deprivation or penalty for refusal to participate.*

2. A licensee or certificate holder engaging in research shall protect participants in the research from unwarranted physical or mental discomfort, distress, harm, danger or deprivation.

3. A licensee or certificate holder shall treat information obtained from or about participants through research as confidential.

4. A licensee or certificate holder shall only take credit for work actually done in connection with his research and shall give credit for contributions made by others.

Section 43. *1. A licensee or certificate holder who violates any of the provisions of these regulations is guilty of unprofessional conduct.*

2. If a violation or other unprofessional conduct occurs while a license or certificate of a licensee or certificate holder is in effect, the board will take disciplinary action, as appropriate, against him even if the license or certificate thereafter has expired or been suspended.

3. The revocation, suspension or other disciplinary action taken by this state or another state on the license, certificate or registration to practice alcohol or drug abuse counseling or a related field that was issued by that state is grounds for disciplinary action against the licensee or certificate holder by the board for unprofessional conduct.

4. The failure of a licensee to comply with a stipulation, agreement, advisory opinion or order issued by the board constitutes unprofessional conduct.

Section 44. *1. "Professional incompetence" as that term is used in NRS 641C.700(4) will be interpreted by the board to mean a lack of knowledge, skill or ability in discharging a professional obligation and includes malpractice and gross negligence.*

2. For the purposes of this section, "malpractice" in the practice of alcohol and drug abuse counseling means conduct which falls below the standard of care required of a licensee or certificate holder under the circumstances.

3. For the purposes of this section, "gross negligence" in the practice of alcohol and drug abuse means conduct which represents an extreme departure from the standard of care required of a licensee or certificate holder under the circumstances.

Section 45. *Parties to proceedings before the board must be styled "applicant," "complainant," "petitioner," "protestant" or "respondent," according to the nature of the proceedings and the relationship of the parties thereto. In any proceeding which the board initiates, the board will be styled the "staff."*

Section 50. *Members of the board's staff may appear at any proceeding and participate as a party.*

Section 46. *A party shall enter his appearance at the beginning of a hearing or at any time designated by the presiding officer, by giving his name and address and stating his position or interest to the presiding officer. The information must be entered in the record of the hearing.*

Section 47. *1. A party may appear in person or be represented by an attorney.*

2. 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 associated with an attorney so admitted and entitled to practice.

Section 48. *Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders to be served thereafter upon the party must be served upon his attorney, and such service is, for all purposes, valid service upon the party represented.*

Section 49. *Any attorney of record wishing to withdraw from a proceeding before the board must, in writing, immediately notify the board or its presiding officer, the party whom he represented and any other parties to the proceeding.*

Section 50. *Pleadings before the board must be styled "applications," "petitions," "complaints" and "answers."*

Section 51. *Every pleading, except a petition, must be signed by the person who submits it.*

Section 52. *The board will construe all pleadings so as to administer justice between the parties, and the board will, or its presiding officer will, at every stage of any proceedings, disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.*

Section 53. *A pleading requesting a privilege, license or certificate from the board must be styled as an "application." It must set forth the full name and address of the applicant, and must contain such facts or exhibits as may be required by statute or these regulations.*

Section 54. 1. *Each pleading in which a party prays for affirmative relief, excluding an application, complaint or answer but including a request for a declaratory order or an advisory opinion or for the adoption, amendment or repeal of any regulation, must be styled a "petition."*

2. A petition must contain the petitioner's full name and mailing address and be signed by him.

Section 55. 1. *Any person may file a complaint regarding the acts or services provided by a licensee or certificate holder. The complaint must be on a form prepared and provided by the board. The complaint must be sufficiently detailed to enable the respondent to prepare a response. If the complainant is a client and is complaining about his treatment by a licensee or certificate holder, the complainant shall also be provided with a limited waiver of confidentiality regarding his records, and the complaint will not be further reviewed or processed until the waiver document is received by the board office.*

2. Upon receiving a complaint, the board's staff shall send by certified mail a copy of the complaint to the licensee or certificate holder. The transmission of the complaint shall be deemed a notice of intended action pursuant to NRS 233B.127(3). Upon receipt of the complaint, the licensee or certificate holder shall provide a written response to the board office within 10 days. The response shall respond to the allegations made in the complaint and should be accompanied with all documentation that would be useful to the board staff's review of the allegations.

3. The board's staff and legal counsel shall review the complaint and the response from the respondent. The board's staff and legal counsel may:

(a) Investigate the allegations, including the employment of such people as they deem necessary to further the investigation;

(b) Consult with experts in the appropriate field, including employing such people for the purposes of investigation or hearing;

(c) Investigate any new leads or allegations that may come to their knowledge in the course of investigating the complaint;

(d) Enlist the aid of a board member in the conduct of the investigation; and

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

4. If the board's staff and legal counsel determine that the preliminary information received reasonably indicates that the program in which a licensee or certificate holder is employed or otherwise treating clients may also have committed violations of laws applicable to its operation, the board's staff or legal counsel may coordinate with and seek the assistance of the Bureau of Alcohol and Drug Abuse in the investigation. The Bureau of Alcohol and Drug Abuse may share its findings and information with the board's staff and legal counsel to the fullest extent allowable under 42 CFR part 2.

5. In the course of investigating, the board's staff, legal counsel, or investigator, including an investigating board member, may demand that a licensee or certificate holder produce his records or other evidence for inspection and copying, with or without prior notice to the licensee or certificate holder and with or without a subpoena. The licensee or certificate holder may not deny any such request for records except that a licensee or certificate holder may deny access to records held confidentially pursuant to 42 CFR part 2. Should a licensee or certificate holder deny or fail to cooperate with a request for records, that licensee's license or certificate holder's certificate shall be immediately suspended until either the request for records is complied with or until the board can take further disciplinary action against the licensee or certificate holder.

6. If the board's staff, legal counsel, or investigator, including an investigating board member, deems certain records or evidence to be material or necessary to an investigation, the person may remove the record or evidence and shall provide a copy of the record or evidence to the respondent. If the record or evidence can be copied readily at the location, then the copies shall be made at the time that the board's staff, legal counsel, or investigator is at the location. If the record or evidence cannot be copied readily at the location, then the board's staff, legal counsel, or investigator may remove the record or evidence from the location to copy the record or evidence elsewhere, in which case the person shall provide the respondent with a receipt for the record or evidence removed and shall provide a copy to the respondent within 5 business days after the record or evidence is removed.

7. When the investigation is completed, the board's staff, legal counsel, and investigator, including an investigating board member, shall determine whether substantial evidence exists to sustain the alleged violation of statute or regulations governing the board. If it is determined that no violation of statute or regulation can be sustained, the board's staff shall notify the complainant and the respondent of this determination in writing. If it is determined that a violation of statute or regulation can be sustained, the board's legal counsel shall prepare a notice of hearing and accusation.

8. A notice of hearing and accusation shall be a plain statement of the facts and applicable provisions of statute and regulation regarding the acts of the respondent. The notice of hearing and accusation shall also notify the respondent of the date, time, and place that the matter shall be heard if such are known at the time of the filing of the notice of

hearing and accusation. The notice of hearing and accusation shall be signed by the board's legal counsel and the investigating board member, if one has been involved in the investigation of the complaint.

9. The notice of hearing and accusation shall be sent by the board's staff to the respondent by certified mail.

10. The respondent shall file an answer to the notice of hearing and accusation within 15 days of his receipt of the notice of hearing and accusation. The answer shall respond to the allegations and statements made in the notice of hearing and accusation, either admitting or denying each of the allegations and statements. A failure to timely file an answer may be deemed by the board to be an admission of the allegations contained in the notice of hearing and accusation.

11. Two or more complainants may be joined in one formal complaint if their respective causes of action are against the same person and deal substantially with the same or similar violations of law such that joining of the complaints will serve the interests of economy of the board's and its staff's efforts.

Section 56. *1. In the course of conducting an investigation, the board's staff, legal counsel, and investigator, including an investigating board member, shall keep all information gathered during the course of the investigation confidential while the investigation is proceeding. This paragraph does not prohibit the board's staff, legal counsel, or investigator, including an investigating board member, from:*

(a) Communicating or cooperating with any agency or board that:

(1) Is investigating a person who is registered with or certified by the board;

(2) Is investigating a program providing a service approved by the board; or

(3) Regulates or has jurisdiction over the violations alleged in a complaint or found during the course of investigation; or

(b) Communicating with the operator of the program or his designee when a complaint against a person who is a member of the staff of the program alleges a condition posing significant hazard to the health or safety of clients or staff of, or visitors to, the program.

2. With the exception of information for which release would violate the standards of 42 C.F.R. Part 2, information gathered during the course of an investigation and the records of investigation become public records after the board completes the investigation if:

(a) Any disciplinary action is sought or imposed as a result of the investigation; or

(b) The person under investigation submits a written request to the board asking that the records be made public.

Section 57. *1. A motion must be made in writing, unless it is made during a hearing. The board may deny a motion made at hearing if the motion reasonably could have been made prior to the hearing.*

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

3. A party desiring to oppose a motion may serve and file a written response to it.

4. The party who made the motion may serve and file a written reply to the response if a response has been served and filed.

5. The presiding officer of the board will rule on all motions at or before the scheduled hearing. A decision on a motion may be made without oral argument unless oral argument is

allowed by the presiding officer. If oral argument is allowed, the presiding officer will set a date and time for hearing the argument.

Section 58. *An original and two legible copies of each pleading, motion or other paper must be filed with the board. The board may direct that a copy of each pleading and motion be made available by the party filing it to any other person who the board determines may be affected by the proceeding and who desires a copy.*

Section 59. *Every notice, advisory opinion, declaratory order or other document to be served by the board will be served by mail or delivered in person. Service thereof by mail will be deemed complete when a true copy of the document is deposited in the United States mail, postage prepaid, and addressed to the last known address provided to the board by the licensee pursuant to these regulations.*

Section 60. *Each document to be filed with the board must include an acknowledgment of service or proof of service to all other parties involved in a matter.*

Section 61. *1. No less than 20 days before a matter is scheduled for a disciplinary hearing, any party may serve upon any other party a written demand for:*

(a) Copies of all documents reasonably available to the other party that are anticipated to be used in support of that party's position.

(b) A written list of persons whom the other party reasonably anticipates will testify at the disciplinary hearing. Each person must be identified by name and location, along with a general description of the subject matter of his testimony.

2. The party to whom such a request is made must respond within 5 days of receiving the request.

3. The party to whom such a request is made is under a continuing duty to supplement promptly his response to the request.

4. Failure to comply with this section may result in the exclusion of the undisclosed documents or witnesses at the time of hearing.

5. The procedure set forth in this section is the only method of discovery allowed pursuant to this chapter.

Section 62. *1. The board will serve notice of a hearing at least 10 days before the date set for the hearing. A hearing which has been previously continued may be reset on advance notice of at least 3 days.*

2. If a notice of hearing and formal complaint are served at the same time, they may be considered together to satisfy the requirements of chapter 233B of NRS.

Section 63. *1. If a party fails to appear at a hearing scheduled by the board and no continuance has been requested or granted, the board may hear testimony of witnesses who have appeared and proceed to consider the matter and dispose of it on the basis of the evidence before it.*

2. Where, because of accident, sickness or other reasonable and unforeseeable cause, a person fails to appear for a hearing or request a continuance thereof, he may, within a reasonable time but not more than 15 days after the date originally set for the hearing, apply

to the board to reopen the proceedings. Upon finding the cause sufficient and reasonable, the board will set a new time and place for hearing and give the person notice thereof. Witnesses who have previously testified may not be required to appear at the second hearing unless so directed by the board.

Section 64. *The presiding member of the board will call the proceeding to order, proceed to take the appearances and act upon any pending motions or petitions. The parties may then make opening statements.*

Section 65. *At a hearing before the board, all parties and their counsel and the spectators shall conduct themselves in a respectful manner.*

Section 66. *The presiding member of the board may consolidate two or more proceedings for one hearing whenever it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by a consolidation.*

Section 67. *With the approval of the presiding member of the board, the parties may stipulate as to any fact at issue, either by a written stipulation introduced in evidence as an exhibit or by an oral statement shown upon the record. Any such stipulation is binding upon all parties to the stipulation, and it may be treated as evidence at the hearing. The presiding member may require evidential proof of the facts stipulated to, notwithstanding the stipulation.*

Section 68. 1. *After the board has publicly deliberated and voted regarding a given matter, the presiding officer may direct that a party draft findings of fact, conclusions of law, and order consistent with the board's oral deliberations and vote.*

2. The findings of fact, conclusions of law, and order will be approved and executed by the presiding officer. When the findings of fact, conclusions of law, and order are executed, the board's staff will mail copies to each of the parties. The mailing to the board's counsel may be by regular mail, but the mailing to the other parties must be by certified mail.

Section 69. *In addition to the facts mentioned in subsection 5 of NRS 233B.123, the board may take official notice of regulations, official reports, decisions, orders, standards, records or files of the board, of any other regulatory agency of the State of Nevada, or of any court of record.*

Section 70. 1. *Within 15 days after the board has made a decision or issued an order, the aggrieved party may apply for a rehearing by filing a written petition setting forth the grounds for the rehearing. The only grounds for rehearing which will be considered by the board are:*

(a) Material mistake or fraud affecting the decision; or

(b) The discovery of previously unavailable material evidence.

2. The board will act upon a petition for rehearing within 30 days after receiving it. If no action is taken by the board within the 30-day period, the petition is deemed denied.

3. The filing of a petition for a rehearing does not excuse compliance with an order or decision of the board, nor suspend its effectiveness, unless the board, by order, allows the excuse or declares the suspension.

Section 71. *The board will consider petitions for declaratory orders or advisory opinions as to the applicability of any statutory provisions or any regulation or decision of the board.*

Section 72. *1. Upon receiving a petition for a declaratory order or an advisory opinion, the board will place the matter on the agenda for discussion at its next regularly scheduled meeting. If the petition is received within 10 days before the next regularly scheduled meeting, the petition may be placed on the agenda for discussion at the following meeting.*

2. At the appropriate meeting, the board will consider the matter and grant or deny the petition.

3. If the board denies the petition, no further action will be taken.

4. If the board grants the petition, the board will issue its declaratory order or advisory opinion within 90 days after granting the petition, or within 120 days if good cause exists for an extended period of consideration. The board may schedule a hearing on the issue raised in the petition before issuing its decision. Such a hearing constitutes sufficient cause to warrant the extension.

Section 73. *After the board determines that an issue concerning the applicability of a provision of a statute, regulation or decision should be addressed, the president or other presiding officer will assign one member of the board to write an order or opinion. Within 60 days thereafter, the member so assigned will:*

1. Review comments by all members of the board on the issue;

2. Research the issue and, if necessary, seek the assistance of the attorney general; and

3. Submit a draft of the order or opinion to the board for its approval.

Section 74. *After the board renders its declaratory order or advisory opinion, the board's staff will give notice of it to the petitioner.*

Section 75. *Any violation of a findings of fact, conclusions of law, and order, or a declaratory order or advisory opinion rendered by the board will be considered unprofessional conduct.*

Section 76. *1. A petition for adoption, amendment or repeal of a regulation must be in writing and be prepared in a form approved by the board.*

2. If the board receives a petition within 30 days before its next regular meeting, the petition will be placed on the agenda for discussion to determine whether the petition should be denied or procedures for adoption of a regulation should be commenced.

3. If a petition is received by the board during any period in which a regular meeting is not scheduled within 30 days, the executive director will place the petition on the agenda of the next regularly scheduled meeting.

4. The board may call a special meeting to consider a petition.