

LCB File No. R101-03

**PROPOSED REGULATION OF THE CERTIFIED
COURT REPORTERS' BOARD OF NEVADA**

(This proposed regulation was previously adopted as LCB File No. T030-03)

Definitions:

“Litigation” defined.

A suit at law or in equity or arbitration subject to judicial review.

“Proceeding” defined.

An examination, statement under oath, deposition or other discovery hearing as provided by statute or in the Nevada Rules of Civil Procedure.

**** (Language suggestions for review)**

“Complainant” defined.

A person who complains to the board of any act of another person must be styled the “complainant.” In any proceeding which the board initiates, the board must be styled the “complainant.” (Marriage & Family Therapists NAC 641A.295)

“Complainant” means a person who complains to the board of any act of another person subject to the jurisdiction of the board. (Alcohol & Drug Abuse Counselors NAC 641C.025)

“Complainant” means any person who complains to the board of any act of another person. (Social Workers NAC 641B.025)

“Respondent defined.

“Respondent” means a licensee or an applicant for a contractor’s license who is charged in a complaint with a violation of the provisions of this chapter or chapter 624 of NRS. (Contractors Board)

A person against whom any complaint is filed or investigation initiated must be styled the “respondent.” (Marriage & Family Therapists NAC 641A.315)

“Respondent” means a person against whom a complaint is filed or an investigation is initiated. (Alcohol & Drug Abuse Counselors NAC 641C.055 & Social Workers NAC 641B.060)

-OR-

Dispensing Opticians

NAC 637.340 Classification of parties.

- 1. A party in a proceeding before the board must be called applicant, petitioner, complainant, respondent, intervener or interested party, according to the nature of the proceeding and the relationship of the party thereto.*
- 2. An “applicant” is a person who is applying or petitioning for any privilege, license or authority from the board.*
- 3. A “petitioner” is a person, other than a complainant, who is petitioning the board for affirmative relief.*
- 4. A “complainant” is a person who is complaining to the board of any act or of any person.*
- 5. A “respondent” is a person against whom any complaint is filed or investigation is initiated.*

NAC 656.100 Application for certificate.

1. An application for a certificate must be submitted to the Certified Court Reporters’ Board of Nevada [~~P.O. Box 237, Las Vegas, Nevada 89125-0237.~~]
(The remaining paragraphs in this section unchanged.)

NAC 656.120 Examination: Administration.

1. The executive secretary of the board shall assign a unique identification number to each application that is approved by the board. An applicant must register on the day of the examination by presenting the original of the photo identification that accompanied his application *and sign the official sign-in sheet*. The board or a member of the staff of the board will open the examination room on the day of the examination at 8 a.m. for registration. The board or a member of the staff of the board will provide a seat for the applicant in the examination room according to the identification number that is assigned to his application.
6. An applicant shall bring to the examination room a pen or pencil, [~~a typewriter and~~] stenographic equipment, *and other equipment as designated by the board*. The board will provide paper for transcription. The board will not:
 - (a) Provide ribbons for typewriters, typewriters or stenographic equipment.
 - (b) Replace equipment for an applicant if his equipment malfunctions during the examination.
10. Questions concerning the administration, procedure or content of the examination must be submitted to the [~~chairman of the board at the~~] Certified Court Reporters’ Board of Nevada [~~P.O. Box 237, Las Vegas, Nevada 89125-0237.~~]

NAC 656.130 Examination: Written section.

1. After the presentation of the oral instructions and remarks of introduction by the chairman of the board, the board will provide for the administration of the written section of the examination. Unless special arrangements are made pursuant to subsection 7 of NAC 656.120, the board will give an applicant 1 hour and 45 minutes to complete the written section. A grade of at least 70 percent is required to pass the written section.

2. The written section of the examination consists of not less than 150 and not more than 200 questions that test the knowledge of the applicant in:

(a) Vocabulary;

(b) Punctuation;

(c) Grammar;

(d) Spelling;

(e) Medical terminology;

(f) Legal terminology;

(g) The provisions of the Nevada Rules of Civil Procedure relating to the practice of court reporting; and

(h) The provisions of the Supreme Court Rules relating to the practice of court reporting.

(i) Any subject matter related to performing the duties of a court reporter.

The executive secretary of the board shall include material to prepare for the written section of the examination in the letter of admittance to the examination mailed to the applicant.

NAC 656.140 Examination: Section on transcription.

4. An applicant shall prepare the transcription by ~~{typewriter}~~ *means designated by the board*. An applicant shall not use an electronic device that records or *use* handwriting to prepare the transcript. ~~[If an applicant uses a typewriter that has the capacity to check spelling, the applicant must turn off or otherwise disable that capacity of the typewriter. After an applicant completes the transcription, he shall turn in all discs, tapes and other electronic recordings of the transcription. If the applicant uses a typewriter that has the capacity to preserve the transcription of the applicant, the applicant must delete or erase the transcription after he completes the examination.]~~

NAC 656.150 Notice of results of examination; action by successful applicant; review of examination.

1. Not more than 8 weeks after the administration of the examination, *the Board shall ratify the list of examination scores at a public Board meeting*. The chairman of the board shall provide official written notice to each applicant of the results of the examination of the applicant. The results of an examination must not be given to an applicant by telephone.

2. ...~~(f)~~ Complete answers to the questions contained on the ~~{back-of-the}~~ form. Upon receipt of a complete application, the board will process an application for a certificate.

3. A successful applicant shall not practice court reporting in this state until he receives a certificate from the board.

4. An applicant may submit a written request to the board to review his examination. Upon such a request, the board will provide a copy of the section on transcription if the applicant pays the board for the actual expenses incurred by the board in photocopying the examination and mailing the examination to the applicant. An applicant may review the written section of the examination at the office of the board *within 45 days following the ratification of results.* *Applicant may not copy or reproduce by any means the written portion of the exam.* The board will not mail the written section of the examination to an applicant.

NAC 656.170 Placement of certificate on inactive status; reactivation of certificate.

1. A court reporter who is current in the fees required by the board and the requirements of continuing education may submit an application in a form prescribed by the board to place his certificate on inactive status. A court reporter whose certificate is on inactive status shall pay a fee each year in an amount that is one-half of the fee which is required for renewal of a certificate.

2. A court reporter whose certificate is on inactive status may reactivate his certificate if he pays the fee for renewal of a certificate *and fulfills the continuing education requirement for the current licensing year* ~~[and demonstrates to the board that he possesses the skills necessary for certification as a court reporter.]~~ *If the court reporter has been on inactive status for a period of five years or more,* the board may require the applicant to do one or any combination of the following:

(a) Take the written section or the section on transcription of the examination, or both.

(b) If the applicant engaged in the practice of court reporting in another jurisdiction during the time that his certificate was on inactive status, submit proof of such practice.

~~[(c) Submit proof of his compliance with the requirements for continuing education.]~~

(c) ~~[(d)]~~ Submit other proof that is required by the board to demonstrate that the applicant possesses the skills that are necessary to practice court reporting.

~~[NAC 656.200—Fees for issuance or renewal of certificate.~~

~~—1. For the original issuance of a certificate.....\$175~~

~~—2. For the annual renewal of a certificate.....\$120~~

~~Notes: Increase of initial issuance of certificate to reflect higher administrative cost.~~

~~(2) To accurately reflect the current fee schedule.]~~

NAC 656.205 Understanding and knowledge of statutes, regulations and court rules ~~;~~ maintenance of competence.

1. A court reporter shall possess basic understanding and knowledge of the statutes, regulations and court rules governing the practice of court reporting in this state. ~~[A court reporter may obtain a booklet from the board that contains the applicable statutes, regulations and court rules upon the payment of \$10 to the board.]~~ *Statutes and regulations governing the practice of court reporting in Nevada reside at www.leg.state.nv.us/nac and www.leg.state.nv.us/nrs.*

~~[2.—In addition to the requirements of continuing education, the board encourages each court reporter to maintain his competence by learning of technological advances and developments in the field of court reporting.]~~

NAC 656.210 Required hours~~;~~ ~~authorization to carry forward excess credit.~~

1. ~~[A court reporter who earns more than 5 hours of credit for continuing education in any licensing year may carry forward the excess credit and apply it to the educational requirements for the next licensing year. No more than 5 hours of credit may be carried forward to the next licensing year.]~~

(To be replaced by this language:)

NAC 656.210 Required hours~~;~~ ~~authorization to carry forward excess credit.~~

~~—1.—~~ *Except as otherwise provided in subsection 2,] A court reporter shall complete at least 15 hours of continuing education relating to the practice of court reporting within a 2 year period. There will be no allowance for carry over of credit.*

~~[2.—A court reporter who earns more than 5 hours of credit for continuing education in any licensing year may carry forward the excess credit and apply it to the educational requirements for the next licensing year. No more than 5 hours of credit may be carried forward to the next licensing year.]~~

Notes: At the request of the board.

NAC 656.230 Notice of noncompliance; suspension or revocation of certificate for failure to file report of compliance; reinstatement of certificate.

1. The board will, on or before June *1st* ~~[15]~~, provide written notice of noncompliance *with NAC 656.220*, by certified or registered mail, to the last known address of a court reporter ~~[who failed timely to file the compliance form.]~~

2. The notice of noncompliance must contain:

(a) A statement explaining the manner in which the court reporter failed to comply with the requirements for continuing education;

(b) A notice that the court reporter shall, on or before *June 30* ~~[September 15]~~, file with the board a compliance form showing that he has cured the failure specified; and

(c) A notice which specifies the consequences provided in subsection 3 for failure to file the form by *June 30* ~~[September 15.]~~

3. The board may suspend or revoke the certificate of a court reporter who fails to file a report of compliance by *June 30* ~~[September 15]~~. Reinstatement of a certificate may be conditioned upon one or both of the following:

(a) Proof of compliance with the requirements for continuing education.

(b) The passage of the written exam required pursuant to NRS 656.160.

NAC 656.250 Registration ~~[or renewal]~~ of firm; examination ~~[fees;]~~ change in ownership or other information.

1. Each firm that practices court reporting in this state must complete a form for registration provided by the board and file the form with the executive secretary of the board. The form for registration must include:

- (a) The *Nevada* business address of the firm;
- (b) The residential address of each owner of the firm;
- (c) If applicable, a copy of each certificate filed pursuant to chapter 602 of NRS to do business under an assumed or fictitious name;
- (d) Copies of all ~~[Nevada]~~ business licenses issued to the firm by a local government *in the state of Nevada*; and
- (e) All other documents, reports and other information required by the board.

~~[2.—The following fees must be paid:—~~

~~—a. For the issuance of an initial firm registration.....\$200~~

~~—b. For the annual renewal of a firm registration.....\$150]~~

2.~~[3.]~~ The designated form owner who is not a Nevada certified court reporter must initially pass a written examination administered by the Board.

(a) Individual applicants will be scheduled for the written exam by the Board secretary. All exams will be administered at the Board office at a cost of \$100 for the initial exam and \$50 for up to three retakes per year.

(b) Exams will consist of 100 multiple choice questions as designated by the board, including but not limited to: ~~[on the provisions of NRS, NAC, Supreme Court Rules,]~~ technological advances in the field of court reporting, ethics and professionalism in the field of court reporting, ~~[substance abuse,]~~ management of the business affairs and the economics of court reporting; or any other subject which the board determines to be appropriate.

(c) The board will give an applicant 90 minutes to complete the exam.

(d) A grade of at least 70 percent is required to pass the written examination.

(e) An applicant shall not refer to or otherwise use books, papers or other material during the written the examination.

(f) Results will be mailed to individual applicants within 1 week of the examinations date.

(g) If the applicant has successfully passed the exam, a certificate will be mailed with the test results to the individual applicant. The firm will receive a license when the designated firm owner has passed the written exam.

(h) If an applicant fails the examination, he is ineligible for a certificate. Such an applicant may retake the examination by submitting a written request and the required \$50 fee to the Board office.

(I) An applicant may take the exam up to 4 times in a 12 ~~[6]~~ month period.

(4) ~~[3.]~~ Upon receipt of a completed form for registration, the executive secretary of the board shall issue to the firm a certificate of registration.

(5) 4. If a change in the ownership of a firm occurs or other change in the information provided in the form for registration occurs, the firm shall file an amended form for registration with the executive secretary of the board not more than **30 days after the change occurs.**

~~[NAC 656.260—Name of firm.~~

~~The name of a professional corporation that practices court reporting must contain the last name of one or more of the current shareholders of the corporation. A sole proprietorship or professional corporation that practices court reporting under an assumed or fictitious name shall file with the Board a copy of the certificate of registration pursuant to Chapter 602 of NRS.]~~

NAC 656.270 Compliance with certain provisions; application of certain statutes and regulations.

1. *Each firm shall complete at least 15 hours of continuing education every two years relating to the practice of court reporting or its business practices, if the requirements of NAC 656.210 have not been met.*

NAC 656.280 Standards of practice.

1. *Each firm that practices court reporting must have one owner who is a court reporter or registered firm owner.*

(The remaining paragraphs left unchanged.)

PROFESSIONAL CONDUCT

Standards of Conduct

NAC 656.300 Scope; violation of provisions. The provisions of NAC 656.300 to 656.390, inclusive, constitute the standards of conduct that a court reporter shall follow while he is engaged in the practice of court reporting. A violation of the provisions of NAC 656.300 to 656.390, inclusive, *constitutes* ~~[a violation of professional]~~ unprofessional conduct as that term is used in subsection **12** ~~[10]~~ of NRS 656.250 and is a ground for disciplinary action by the board.

Notes: To be consistent with language in NRS 656.250 (recommended revision).

656.310 Conflicts of interest; disclosure; ~~[provision of uniform service;]~~ limitations on giving.

1. *A court reporter shall not provide services as a court reporter in a proceeding if the court reporter is a relative or employee of counsel to any of the parties, or a relative or employee of the parties involved in the proceedings, or a person financially interested in the proceedings.*

2. *A court reporter must always disclose to all parties present at a proceeding the existence of any conflict or potential conflict. ~~[direct or indirect conflict of interest with any attorney or party to the litigation, so that the other parties may exercise their rights to object to the taking of the deposition because of the possible disqualification of the court reporter].~~ After the disclosure, the court reporter may provide court reporting services ~~[as a court reporter in a proceeding]~~ if each party present at the proceeding has no objection to the court reporter providing said services ~~[. present at the proceeding authorizes the court reporter to provide services.]~~*

3. *In the event of such disclosure, the reporter shall put the following parenthetical on the record: (The reporter made a disclosure pursuant to NAC 656.310(1).)*

4. *A firm or court reporter shall not give, directly or indirectly, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for items that do not exceed \$100 in the aggregate per recipient each year.*

NAC 656.320 Service to firms engaged in court reporting; service in foreign jurisdictions.

1. *A court reporter shall not accept work or assignments from a firm if the firm is not registered.* A court reporter may make inquiries to the board to determine whether the firm is a registered firm.

2. A court reporter may provide service as a court reporter in a proceeding *filed* in a foreign jurisdiction if the court reporter complies with the requirements of the regulatory body that governs the practice of court reporting in the foreign jurisdiction, *unless in violation of Nevada statutes.*

~~**[NAC 656.330—Agreements for certain ongoing services prohibited.**~~

~~A court reporter shall not enter into a contract or other agreement with a person or entity to provide ongoing services as a court reporter or ongoing services which are incidental to the practice of court reporting for an action that is not pending before a court or administrative agency. This subsection does not apply to:~~

- ~~—1. The provision of services to a governmental body;~~
- ~~—2. A court reporter who agrees to provide services for a single proceeding before the commencement of litigation; or~~
- ~~—3. A court reporter who agrees to provide services for a matter that is not related to litigation.]~~

NAC 656.330 Agreements for certain ongoing services prohibited.

1. A court reporter shall not provide or arrange services if he or she is financially interested in the action.

2. A court reporter or firm shall not enter into or arrange a financial relationship that compromises the impartiality of court reporters or that may result in the appearance that the impartiality of the court reporter has been compromised.

3. A court reporter or firm shall not enter into any arrangement for court reporting services where any attorney or party is not free to terminate the arrangement at any *time* ~~[moment]~~.

4. Rates shall not be dictated, set or established by any third party.

5. A court reporter *or firm* shall not enter into a contract or other agreement with a person or entity to provide ongoing services as a court reporter or ongoing services which are incidental to the practice of court reporting if the following exists:

- (a) for litigation not yet in existence; ~~[pending before a court or administrative agency].~~*
- (b) undermines the impartiality of the court reporter;*
- (c) requires a court reporter to relinquish control of an original deposition transcript and copies of the transcript before it is certified and delivered to the custodial attorney;*
- (d) gives or appears to give an exclusive advantage to any party.*

6. Subsection 5 does not apply to:

(a) The provision of services to a governmental body;

1. ~~[A court reporter who agrees to provide services for a single proceeding before the commencement of litigation; or]~~

(b) A court reporter who agrees to provide services for a matter that is not related to litigation.

NAC 656.350 Accuracy of reporting; alteration of records.

1. Except as otherwise provided in this subsection, a court reporter who provides services as a court reporter shall treat all words spoken during a proceeding to be on the record and shall accurately report all words spoken during the proceeding. This subsection does not apply if the judge or arbiter presiding over the proceeding instructs otherwise or if each party to the proceeding or his attorney stipulates otherwise. ~~[Before the commencement of a proceeding, a court reporter may request each party to the proceeding or his attorney to stipulate that]~~ *During a proceeding*, if one party or his attorney instructs the court reporter to go off the record, the court reporter will stop reporting unless another party or his attorney makes an immediate objection to the instruction, *except as provided in NRCP 30(d)*.

2. A court reporter shall not alter the record of a proceeding unless:

(a) Each party to the proceeding or his attorney *stipulates* ~~[signs a stipulation]~~ for the alteration; or

(b) The judge or arbiter presiding over the proceeding orders the alteration.

656.360 Preparation of transcripts.

Question by the Board: “Confirm that this is in compliance with NRS 3.370.”

Recommendation: This subcommittee feels NAC does not need to comply with NRS regarding margin settings, considering the diversity of court and freelance rates. As well, the current NAC is in conformance with NCRA recommended page format guidelines.

Notes: See recommendation above. ****Board agreed to reasoning.****

NAC 656.370 Provision of transcripts to parties.

1. ~~[A court reporter shall deliver a transcript of a proceeding to the each party who orders the an original and or each party who orders a copy in a timely manner and in accordance with any applicable statute, rule, order, custom or practice.]~~

1. A court reporter shall deliver the original transcript of a proceeding to the party who took the deposition and a copy of the transcript to each party requesting a copy, in a timely manner and in accordance with any applicable statute, rule, order, custom or practice.

(***Note: This cites NRCP 30(f) regarding the handling of the original.)

3. If a court reporter receives a request for a transcript of a proceeding or a portion of a transcript of a proceeding, the court reporter shall take reasonable steps to notify each party to the proceeding or each attorney who represents a party to the proceeding of the request in a timely manner that allows a party or his attorney to order a copy of the transcript that was requested.

NAC 656.380 Confidentiality. A court reporter shall preserve the confidentiality and ensure the security of all written and oral information that is entrusted to the court reporter by the parties to a proceeding pursuant to a stipulation entered into the record or attached to the record. Except as otherwise provided by statute, if the parties have not entered into a stipulation concerning the confidentiality of information, the court reporter shall deem the transcript of the proceeding *non-confidential* ~~[a public record.]~~

NAC 656.390 Fees for services; *provision of uniform service.*

“1. For each *litigation and all the proceedings therein* in which a court reporter provides service as a court reporter, he shall establish his fees for:

- (a) Attending the proceeding.
- (b) Preparing an original transcript of the proceeding.
- (c) Preparing a copy of the transcript.
- (d) Preparing a computer disc of the transcript.
- (e) Preparing a portion of the transcript.
- (f) Assembling and copying exhibits that are identified in the proceeding.

2. After establishing his fees pursuant to subsection 1, a court reporter shall charge the same fee *and provide uniform service* to each person *party to the litigation* who requests a service listed in that subsection.

3. Upon request, a court reporter shall provide to each party to a proceeding or his attorney an itemized statement of all rates and charges for services that have been provided by the court reporter in the *litigation* or services that the court reporter will provide before the completion of the *litigation*.”

NAC 656.410 Retention of electronically stored data in lieu of paper notes.

The board will interpret the requirement contained in NRS 656.335 as authorizing a court reporter to retain computer discs, cartridges and other electronic means of storing data in lieu of retaining the paper notes of the court reporter.

1. Each court reporter shall retain paper notes of all untranscribed for a period of eight years.

2. Each court reporter shall retain paper notes of all transcribed for a period of two years.

~~[3.—Rough draft transcripts prepared pursuant to Nevada Rules of Appellate Procedure 3(C) shall be stored in ASCII format for eight years, or until the certified transcript replaces the rough draft.]~~

3. Each court reporter shall store all electronic notes for a period eight years.

Complaints, Investigations, and Hearings

~~[NAC 656.450—Investigation; notice and answer; setting of hearing.~~

~~—1. Upon the request of the board, the executive secretary of the board shall conduct an investigation pursuant to subsection 1 of NRS 656.280.~~

~~—2. If the board serves notice on an accused pursuant to subsection 2 of NRS 656.280, the notice must include the time and date of the hearing and inform the accused that the board will require an answer from the accused to the charges made. The accused shall deliver the answer personally or by mail not more than 10 days after receipt of the notice. The answer may include exhibits that the accused considers necessary.~~

~~—3. The executive secretary of the board shall set the time and place for the hearing in accordance with subsection 3 of NRS 656.280. The executive secretary shall consider the:~~

~~—(a) Convenience of the members of the board, the executive secretary, the attorney general who represents the board and the accused;~~

~~—(b) Number of witnesses; and~~

~~—(c) Type and amount of evidence that will be presented.]~~

NAC 656.450. Complaints; informal complaints and formal complaints; filing; default; response; review; investigation; notice of hearing; consolidation.

1. Any person may file an accusation with the board or the board, upon its own initiative, may cause an accusation to be filed concerning the acts or services provided by the holder of a certificate issued under NRS 656. A petition will be processed as the formal complaint described in this section and must be preceded by an informal complaint processed as described in this section. The hearing provided in NRS 656.290 must be preceded by the informal complaint process as described in this section.

The board will initially consider any accusation regarding a certificate holder as an informal complaint. 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 board to investigate and properly verify the accusation(s).

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

a) is within the jurisdiction of the board;

b) has been properly verified; and

c) alleges sufficient facts to warrant further proceedings.

3. If the complaint does not meet the requirements of subsection 2, the board shall so inform the complainant by certified mail. Unsubstantiated complaints are not considered public record.

If the board's staff determines that the informal complaint has been properly verified and alleges sufficient facts, the staff shall notify the respondent by certified mail. The notification must include a letter setting forth the violations of this chapter or of NRS 656 alleged in the informal complaint, plus a copy of the informal complaint itself.

The notification must request a written response for review by the staff. The transmission of the notification will be deemed to be a notice of intended action. Upon the receipt of the copy of an informal complaint that has been filed against him, the respondent shall submit to the board a written response within 30 days after the date on which the notification was served. The written response must address all allegations made in the informal complaint and be accompanied with all documentation that would be useful to the staff in its review.

Failure by a respondent to cooperate with the board during an investigation of an informal complaint, including, without limitation, failing to timely respond to the board regarding the informal complaint sent to the respondent by the staff pursuant to this subsection, is a ground for disciplinary action against the certificate holder.

4. If a respondent fails to respond as required pursuant to subsection 3, respondent shall be deemed to have admitted the allegations in the informal complaint. Based on these admissions, the board may impose appropriate discipline on the certificate holder.

5. In cases where a response is filed as required pursuant to subsection 3 wherein the respondent admits the allegations and agrees to the proposed discipline, the matter will be deemed settled and no further action will be taken.

6. In cases where a response is filed as required pursuant to subsection 3 and further review is necessary, the staff 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 its review of the informal complaint and the responses made thereto, the staff 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.

7. During an investigation of an informal complaint, the staff or investigator may demand that the respondent produce his records or other evidence for inspection or copying, with or without prior notice to the respondent, and with or without a subpoena. A respondent shall not deny any such request for records or other evidence if the record or other evidence is not subject to confidentiality provisions as provided by law.

If a respondent refuses or fails to cooperate with a request for records in violation of this section, the board may immediately suspend his certificate until the respondent complies with the request for records or other evidence. If the respondent continues to refuse or fails 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 certificate holder as the board determines necessary.

8. If the staff or investigator determines that a specific record or other specific evidence is material to or necessary for an investigation, the staff or investigator may make a copy of the record or evidence.

If a record or other evidence can be readily copied at the location where the record or evidence is located, the respondent will provide the staff or investigator 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 respondent will provide the staff or investigator a copy of the record or evidence from that location not later than 10 business days after the record or evidence is requested.

9. When an investigation of an informal complaint is complete, the staff and investigator 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 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 and investigator determine that a violation of a statute or regulation as alleged in the complaint can be sustained, the board or 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.*

10. A notice of hearing and formal complaint must:

(a) Be a plain statement of the facts asserted and applicable provisions of statutes and regulations alleged to have been violated by the respondent; and

(b) Include the date, time and place that the board will hear the matter; and

Be signed by the legal counsel and, if a member of the board was active in the investigation, by that member of the board.

11. The staff shall send a notice of hearing and formal complaint prepared pursuant to subsection 10 to the respondent named in the notice of hearing and the formal complaint by certified mail, pursuant to NRS 656.280.

12. A respondent who receives a notice of hearing and 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 formal complaint were served. An answer to a notice of hearing and 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 respondent 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 certificate holder in the same manner as if the allegations had been proven by substantial evidence at a board hearing held on the formal complaint.

13. 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 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. 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.

NAC 656.460 Hearings: Presentation of evidence; participation by interested members of board *participation by investigating members of board.*

1. Upon the request of the board, the ~~{executive secretary}~~ *presiding member* of the board or the attorney general who represents the board shall present the evidence against the accused at the hearing.

2. A member of the board who is a relative by blood or marriage or has a business relationship with the accused shall not participate in the hearing, and the chairman of the board shall immediately notify the governor to appoint an additional member of the board to take the place of the member for participation in the hearing.

3. A member of the board who participates in the investigation of the accused shall not participate in the hearing, and the chairman of the board shall immediately notify the governor to appoint an additional member of the board to take the place of the member for participation in the hearing.