

LCB File No. R185-07

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

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

**Sec. 2. 1.** *“Clinical practice of counseling alcohol and drug abusers” means:*

*(a) The application of counseling to reduce or eliminate the habitual use of alcohol or other drugs, other than any maintenance dosage of a narcotic or habit-forming drug administered pursuant to chapter 453 of NRS; and*

*(b) The identification, evaluation and diagnosis of and treatment for a mental illness when a person with mental illness is also an alcoholic or abuser of drugs.*

**2.** *The term does not include:*

*(a) The diagnosis or treatment of a psychotic disorder; or*

*(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude and interests.*

**Sec. 3.** NAC 641C.005 is hereby amended to read as follows:

641C.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 641C.008 to 641C.066, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 4.** NAC 641C.018 is hereby amended to read as follows:

641C.018 “Certified intern” means a person who is certified as *a clinical alcohol and drug abuse counselor*, an alcohol and drug abuse counselor intern or as a problem gambling counselor intern pursuant to the provisions of this chapter and chapter 641C of NRS.

**Sec. 5.** NAC 641C.030 is hereby amended to read as follows:

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

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

**Sec. 6.** NAC 641C.040 is hereby amended to read as follows:

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

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

**Sec. 7.** NAC 641C.070 is hereby amended to read as follows:

641C.070 For the purposes of this chapter and NRS *641C.330, 641C.340*, 641C.350, 641C.390, 641C.420, 641C.430 and 641C.440:

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

(a) Any program in:

- (1) Counseling alcohol and substance abusers;
- (2) Counseling problem gamblers;
- (3) Psychiatry;
- (4) Psychology;
- (5) Social work;
- (6) Marriage and family therapy;
- (7) Nursing; or
- (8) Medicine; or

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

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

**Sec. 8.** NAC 641C.205 is hereby amended to read as follows:

**NAC 641C.205 Allowance of credit for college courses.** (NRS 641C.200, 641C.350, 641C.390) For the purposes of this chapter, paragraph (d) of subsection 1 of NRS 641C.350 and paragraph (d) of subsection 1 of NRS 641C.390, the Board will consider an applicant for a license or certificate as a *clinical Alcohol and drug abuse counselor or an* alcohol and drug abuse counselor to have successfully completed 2,500 hours of supervised counseling of drug and alcohol abusers if the applicant has successfully completed:

1. A bachelor’s degree in a field of social science approved by the Board that included 18 semester hours, or 27 quarter hours, of study specifically related to the counseling of alcohol and

drug abusers from an accredited college or university or has accrued the required 18 semester or 27 quarter hours in education following the completion of a bachelor's degree; or

2. A graduate degree in a field of social science approved by the Board that included 12 semester hours, or 18 quarter hours, of study specifically related to the counseling of alcohol and drug abusers from an accredited college or university or has accrued the required 12 semester or 18 quarter hours in postgraduate education.

**Sec. 9.** NAC 641C.215 is hereby amended to read as follows:

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

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

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

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

4. The staff may, not later than ~~30~~ 90 days after the date on which it receives an application for licensure or certification, reject the application if the applicant:

- (a) Fails to complete the application as specified by the Board;
- (b) Does not meet the minimum requirements for:
  - (1) The license or certificate for which the applicant is applying; or
  - (2) The examination for the license or certificate for which the applicant is applying;
- (c) Has previously had his license or certificate revoked by the Board;

(d) Has been convicted during the 2 years immediately preceding the date on which he submitted the application of any crime other than a violation of a traffic law not involving alcohol or a controlled substance;

(e) Has not completed a term of parole or probation from a conviction obtained in this State, another state, a territory or possession of the United States, or the District of Columbia before the 2 years immediately preceding the date on which he submitted the application; or

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

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

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

**Sec. 10.** NAC 641C.225 is hereby amended to read as follows:

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

(a) A written application on a form prescribed by the Board;

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

(c) Proof satisfactory to the Board that the license, certificate or other credential held by the applicant:

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

(2) Is currently valid and in good standing;

(d) Proof satisfactory to the Board that the applicant had a bachelor's degree, master's degree or doctoral degree from an accredited college or university in a field of social science

approved by the Board at the time the license, certificate or other credential was issued by another state, a territory or possession of the United States, or the District of Columbia;

(e) A statement concerning whether the license, certificate or other credential issued by another state, a territory or possession of the United States, or the District of Columbia has ever been suspended, revoked or otherwise restricted for any reason;

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

(g) Proof satisfactory to the Board that the applicant has satisfied any other requirements set forth in this chapter and chapter 641C of NRS to engage in the practice of counseling alcohol and drug abusers, *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers, including, without limitation, NRS *641C.330*, 641C.350, 641C.390 and 641C.430 and NAC 641C.220.

2. If an applicant for licensure or certification without examination holds or previously held a similar license, certificate or other credential issued by another state, a territory or possession of the United States, or the District of Columbia which is or was suspended, revoked or otherwise restricted, or if the applicant has otherwise been subjected to any discipline for any reason by the entity which issued the license, certificate or other credential, the Board will review and consider the specific facts and circumstances surrounding the suspension, revocation, restriction or disciplinary action, and may use this review and consideration in determining whether to issue a license or certificate without examination to the applicant or to deny his application for licensure or certification without examination.

**Sec. 11.** NAC 641C.250 is hereby amended to read as follows:

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

(a) Provide counseling for the abuse of alcohol and other drugs, including, without limitation:

- (1) Making a diagnosis or classification;
- (2) Providing a referral; or
- (3) Planning a course of treatment;

(b) Provide counseling to a person who has a significant relationship with an identified or suspected abuser of alcohol or drugs, only to the extent necessary to treat the identified or suspected abuser or engage the identified or suspected abuser in treatment; and

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

2. *A person who is licensed as a clinical alcohol and drug abuse counselor may:*

*(a) Provide counseling for the abuse of alcohol and other drugs, including, without limitation:*

*(1) Making a diagnosis or classification;*

*(2) Providing a referral; or*

*(3) Planning a course of treatment;*

*(b) Provide treatment for a mental illness to a person with a mental illness who is also an alcoholic or abuser of drugs, including, without limitation, the identification, evaluation and diagnosis of a mental illness;*

*(c) Provide counseling to a person who has a significant relationship with an identified or suspected abuser of alcohol or drugs, only to the extent necessary to treat the identified or suspected abuser or engage the identified or suspected abuser in treatment; and*

*(d) Conduct testing for which the counselor was trained.*

3. A person who is certified as a problem gambling counselor may:

(a) Provide counseling for problem gambling, including, without limitation:

(1) Making a diagnosis or classification;

(2) Providing a referral; or

(3) Planning a course of treatment;

(b) Provide counseling to a person who has a significant relationship with an identified or suspected problem gambler, only to the extent necessary to treat the identified or suspected problem gambler or engage the identified or suspected problem gambler in treatment; and

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

~~[3-]~~ 4. A certified intern may provide any of the services described in subsection 1 *or* 2 subject to the clinical supervision and allowance by the licensed or certified counselor supervising the certified intern. If a certified intern diagnoses or classifies a client, the diagnosis or classification must be substantiated in the clinical record of the client and countersigned by the licensed or certified counselor supervising the certified intern.

~~[4.]~~ 5. Except as otherwise provided in subsection ~~[5.]~~ 6 and in NRS 641C.130, the provision of counseling services related to alcohol and drug abuse or problem gambling to a client in this State through any means, including, without limitation, electronic means or by telephone, regardless of the location of the person providing that counseling, constitutes the practice of counseling alcohol and drug abusers, *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers which is subject to the provisions of this chapter and chapter 641C of NRS.

~~[5.]~~ 6. The practice of counseling alcohol and drug abusers, *the clinical practice of counseling alcohol and drug abusers* and the practice of counseling problem gamblers in this State does not include counseling activities or services provided by the following persons:

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

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

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

~~[6.]~~ 7. A person who engages in the practice of counseling alcohol and drug abusers may represent himself as:

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

(b) *A licensed clinical alcohol and drug abuse counselor, or use the initials “LCADC” after his name, only if the counselor is licensed as such by the Board.*

(c) A certified alcohol and drug abuse counselor, or use the initials “CADC” after his name, only if the counselor is certified as such by the Board.

~~(e)~~ (d) If the person is issued a certificate as an alcohol and drug abuse counselor pursuant to NAC 641C.276 or 641C.277, a Native American certified alcohol and drug abuse counselor, or use the initials “NACADC” after his name.

~~(7)~~ 8. A person who engages in the practice of counseling problem gamblers may represent himself as a certified problem gambling counselor, or use the initials “CPGC” after his name, only if the counselor is certified as such by the Board.

~~(8)~~ 9. Except as otherwise provided in subsection ~~(9)~~ 10, a certified intern may represent himself as:

(a) A certified alcohol and drug abuse counselor intern, or use the words “CADC Intern” after his name, only if the certified intern is certified as such by the Board.

(b) *A certified clinical alcohol and drug abuse counselor intern, or use the words “CCADC Intern” after his name, only if the certified intern is certified as such by the Board.*

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

~~(9)~~ 10. The representation used by a certified intern must ensure that a client does not confuse or misunderstand the fact that the certified intern is not a licensed or certified counselor.

**Sec. 12.** NAC 641C.255 is hereby amended to read as follows:

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

**Sec. 13.** NAC 641C.280 is hereby amended to read as follows:

641C.280 1. To be eligible to supervise a certified intern, a counselor must:



(a) Be licensed as an alcohol and drug abuse counselor , *licensed as a clinical alcohol and drug abuse counselor* or certified as a problem gambling counselor by the Board and be in good standing with the Board and not under any investigation by the Board;

(b) Have satisfactorily completed a course approved by the Board for the training of supervisors; and

(c) Have engaged in the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers for at least 2 years.

2. A licensed alcohol and drug abuse counselor , *a licensed clinical alcohol and drug abuse counselor* or a certified problem gambling counselor may not supervise a certified intern until he has:

(a) Submitted a completed application for a certificate as a supervisor of certified interns to the Board on a form provided by the Board; and

(b) Received notification from the Board that it has approved his application and he has been issued a certificate as a supervisor of certified interns.

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

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

(a) Reside with the certified intern, have an intimate relationship with the certified intern or be related to the certified intern by blood or marriage;

(b) Have had the certified intern as a client; or

(c) Supervise more than five certified interns at one time without the prior approval of the Board.

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

supervision of the licensed alcohol and drug abuse counselor , *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor.

6. A licensed alcohol and drug abuse counselor , *a licensed clinical alcohol and drug abuse counselor* or a certified problem gambling counselor who is supervising a certified intern shall inform the Board in writing of any termination or cessation of his supervision of the certified intern not later than 5 working days after the date on which his supervision of the certified intern terminates or ceases.

**Sec. 14.** NAC 641C.285 is hereby amended to read as follows:

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

- (a) The work of the certified intern is conducted in an appropriate professional setting;
- (b) The work of the certified intern is consistent with the standards of the profession;
- (c) The certified intern is assisted with the development of his professional identity;
- (d) The certified intern has gained the skills required to manage his practice;
- (e) The certified intern has gained the skills required for continuing competency;
- (f) The certified intern has gained knowledge of the laws and regulations applicable to the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers; and
- (g) The certified intern is familiar with the current literature concerning those areas of alcohol and drug abuse counseling or problem gambling counseling which are relevant to his area of practice.

2. A licensed alcohol and drug abuse counselor who is supervising a certified alcohol and drug abuse counselor intern shall communicate with the certified alcohol and drug abuse counselor intern on an individual basis for at least 1 hour every week, unless the Board specifically directs a different schedule or frequency for the meetings, to discuss and evaluate the performance of the certified alcohol and drug abuse counselor intern in his practice.

3. *A licensed clinical alcohol and drug abuse counselor who is supervising a certified clinical alcohol and drug abuse counselor intern shall communicate with the certified clinical alcohol and drug abuse counselor intern on an individual basis for at least 1 hour every week, unless the Board specifically directs a different schedule or frequency for the meetings, to*

*discuss and evaluate the performance of the certified clinical alcohol and drug abuse counselor intern in his practice.*

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

~~[4.]~~ 5. A licensed alcohol and drug abuse counselor, *a licensed clinical alcohol and drug abuse counselor* or a certified problem gambling counselor who is supervising a certified intern:

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

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

~~[5.]~~ 6. Upon the completion of the period of certification, if the certified intern seeks to renew his certification as a certified intern and continue his practice as a certified intern under the supervision of the licensed alcohol and drug abuse counselor, *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor, the licensed alcohol and drug abuse counselor, *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor shall ensure that the progress report prepared by the licensed alcohol and drug abuse counselor, *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor pursuant to this section is included in the application for the renewal of the certificate for the certified intern. If, upon the completion of the period of certification, the certified intern has completed his internship, or if the supervision of the certified intern by the licensed alcohol and drug abuse counselor, *licensed clinical alcohol and drug abuse counselor*

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

~~6.~~ 7. A licensed alcohol and drug abuse counselor, *a licensed clinical alcohol and drug abuse counselor* or *a* certified problem gambling counselor who is supervising a certified intern shall analyze the performance of the certified intern through information obtained:

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

**Sec. 15.** NAC 641C.290 is hereby amended to read as follows:

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

(a) Working under the supervision of ~~an~~ *a licensed* alcohol and drug abuse counselor, *a licensed clinical alcohol and drug abuse counselor* or a certified problem gambling counselor who has not been approved by the Board to supervise ~~alcohol and drug abuse counselor interns or problem gambling counselor~~ *certified* interns;

(b) Working in an arrangement covered by an agreement relating to the supervision of the certified intern if the agreement has not been approved by the Board;

(c) Engaged in any activities that are not within the scope of the practice of counseling alcohol and drug abusers, *the clinical practice of counseling alcohol and drug abusers*, the practice of counseling problem gamblers or the provision of any services relating thereto; or

(d) Not in compliance with the requirements of this chapter and chapter 641C of NRS concerning certified interns,

↪ will not be counted toward the number of hours necessary to become a licensed or certified counselor.

2. If the supervisor of a certified intern changes, the certified intern must submit a new agreement concerning the supervision of the certified intern by the new supervisor to the Board for its approval not later than 5 working days after the date on which the supervisor has changed.

3. Except as otherwise provided in this subsection, if, at the time when a certified intern received his most current certification from the Board, the certified intern is enrolled in a program of education from which he will receive an associate's degree, bachelor's degree,

master's degree or doctoral degree in a field of social science, the licensed alcohol and drug abuse counselor , *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor supervising the certified intern shall ensure that the certified intern is properly enrolled in that program of education during each semester within the certification period. If a certified intern completes and receives his degree from his program of education during a certification period and a new semester for that program of education begins before the end of the certification period, the licensed alcohol and drug abuse counselor , *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor supervising the certified intern is not required to ensure that the certified intern is enrolled in the program of education for the new semester.

4. Except as otherwise provided in this subsection, a certified intern may not accumulate any hours necessary to become a licensed or certified counselor during the remainder of any semester from which he has withdrawn from his courses such that he is no longer enrolled in at least 3 credit hours for a given semester. Upon request of a certified intern, the Board may waive the provisions of this subsection if the Board determines the existence of good cause, including, without limitation, extreme illness of the certified intern or the cancellation of classes by a college or university. To obtain a waiver, the certified intern:

(a) Must provide the Board with documentation of any requested waiver within 30 days after each occurrence; and

(b) May be requested to appear before the Board to determine if a waiver should be granted.

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

**Sec. 16.** NAC 641C.295 is hereby amended to read as follows:

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

1. The licensed alcohol and drug abuse counselor , *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor:

(a) Fails to supervise a certified intern adequately;

(b) Fails to comply with the provisions of this chapter and chapter 641C of NRS relating to the supervision of certified interns;

(c) Fails to ensure that two or more consecutive progress reports regarding the progress of each certified intern under the supervision of the licensed alcohol and drug abuse counselor , *licensed clinical alcohol and drug abuse counselor* or certified problem gambling counselor is submitted to the Board as required in NAC 641C.285; or

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

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

**Sec. 17.** NAC 641C.300 is hereby amended to read as follows:

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

(a) At least 3 hours of continuing education that pertain to ethics; and

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

2. To maintain and renew his certification as a certified intern, the certified intern must attend:

(a) At least 15 hours of training during his first 6 months of certification, including, without limitation:

(1) At least 6 hours of training during the first 3 months of certification that pertain to ethics; and

(2) At least 6 hours of training during the first 3 months of certification that pertain to the standards of confidentiality required pursuant to NAC 641C.425 and, if applicable, the standards of confidentiality set forth in the provisions of 42 C.F.R. Part 2 and the related

provisions of the Health Insurance Portability and Accountability Act of 1996 set forth in 45 C.F.R. Part 160;

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

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

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

(a) A degree at an accredited college or university necessary to qualify for initial licensure or certification as a counselor; or

(b) For *persons applying to be* licensed or certified alcohol and drug abuse counselors, the *semester or quarter unit* hours *completed* pursuant to NAC 641C.205.

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

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

7. A supervisor of certified interns may earn 1 hour of continuing education for each certified intern whom he supervises, for up to not more than 5 interns supervised at any time. Not more than 10 hours of continuing education may be earned for supervising certified interns during any 1 year. The hours earned pursuant to this subsection may not be used to satisfy the requirements to renew a certificate as a supervisor of certified interns pursuant to subsection 6.

8. A certified or licensed counselor may obtain 1 hour of continuing education for publishing an article in a peer-reviewed publication in the area of alcohol, drug or gambling counseling, and, upon approval by the Board, for writing and submitting an article for the

newsletter published by the Board. Not more than 5 hours of continuing education may be earned pursuant to this subsection during the 2-year period of licensure or certification.

9. A certified or licensed counselor may obtain 1 hour of continuing education each time he participates as an examiner for an oral examination given pursuant to NRS 641C.290 for up to 5 hours of continuing education during a 2-year period of licensure or certification.

10. A counselor is subject to disciplinary action by the Board if he:

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

(b) Submits to the Board false or inaccurate information regarding his participation in a program of continuing education.

**Sec. 18.** NAC 641C.320 is hereby amended to read as follows:

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

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

(b) Contains current and relevant educational material which concerns:

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

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

(c) Is of professional quality;

(d) Is appropriately designed for instructional purposes; and

(e) Includes a written evaluation, to be completed by each counselor taking the course, of the content and presentation of the course or program and the relevance of the course or program to continuing education.

2. The Board will consider a course or program of education presented in the form of lectures, seminars, workshops, academic courses at an institution of higher education or correspondence courses. The Board will not approve a course or program of education for the purposes of continuing education if the hours of education that make up the course or program




constitute the same hours that are applied toward the completion of a degree or on-the-job training.

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

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

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

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

**Sec. 19.** NAC 641C.400 is hereby amended to read as follows:

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

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

**Sec. 20.** NAC 641C.405 is hereby amended to read as follows:

641C.405 A counselor or certified intern:

1. Shall not misrepresent, in advertising or otherwise, his education, training, type of license or certificate, qualifications, competence or service, or the results to be achieved if he provides service to a client.

2. Shall not engage in the practice of counseling alcohol and drug abusers, *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers while he is impaired by:

(a) Alcohol, drugs or any other chemical; or

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

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

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

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

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

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

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

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

10. Shall base his practice upon the recognized knowledge relevant to the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers.

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

12. Based upon recognized knowledge and standards for the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* or the

practice of counseling problem gamblers, shall prepare and maintain in a timely manner a record for each of his clients which:

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

(b) Includes copies of other relevant documentation, including, without limitation:

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

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

(3) All other legal documents regarding the client.

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

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

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

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

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

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

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

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

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

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

**Sec. 21.** NAC 641C.410 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

12. Throughout the period of treatment of a client and for the 2 years immediately following the termination of the professional relationship between the client and the counselor treating the client, the certified intern treating the client, or the treatment program, facility or agency, if any, the counselor or certified intern treating the client, as well as any counselors and certified interns employed by the treatment program, facility or agency, if any, shall not:

(a) Enter into a close personal relationship with the client, including, without limitation, sponsorship of the client in a group for self-help, or a romantic or sexual relationship;

(b) Enter into, or attempt to enter into, a financial relationship with the client that is unrelated to ~~[a primary prevention service or a clinical service for]~~ treatment for alcohol and drug abuse or treatment for problem gambling; or

(c) Enter into a romantic or sexual relationship with any person who was in a romantic or sexual relationship with the client during the time that the counselor or certified intern was providing ~~[primary prevention service or clinical service to the client.]~~ *treatment for alcohol and drug abuse or treatment for problem gambling.*

13. Within the 2 years immediately following the termination of a professional relationship with, internship for or supervision of a client, certified intern or other person, a counselor or certified intern shall not solicit or enter into a dual relationship with the client, certified intern or other person if it is foreseeable that such a relationship would harm or exploit the client, certified intern or other person.

**Sec. 22.** NAC 641C.415 is hereby amended to read as follows:

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

**Sec. 23.** NAC 641C.425 is hereby amended to read as follows:

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

2. A certified problem gambling counselor or certified problem gambling counselor intern shall maintain the confidentiality of information subject to standards of confidentiality that are equivalent to the standards set forth in the provisions of 42 C.F.R. Part 2 for the confidentiality of alcohol and drug abuse patient records. Failure by a certified problem gambling counselor or certified problem gambling counselor intern to maintain the confidentiality of information in accordance with this section is a ground for disciplinary action by the Board against the certified problem gambling counselor or certified problem gambling counselor intern.

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

- (a) The counselor or certified intern intends to record any interview with the client; or
- (b) A person other than the counselor or certified intern will be observing an interview between the counselor or certified intern and the client.

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

5. Except as otherwise provided by state or federal law, a counselor or certified intern shall not communicate any information contained in the confidential record of a client with any

other person without the consent of the client. Except as otherwise prohibited by federal law, if a counselor or certified intern determines, based on the information contained in the confidential file of a client, that a clear and immediate danger to a person or to society exists, the counselor or certified intern may release that information only to members of the family of the client, other professional workers or public authorities.

**Sec. 24.** NAC 641C.440 is hereby amended to read as follows:

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

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

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

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

**Sec. 25.** NAC 641C.445 is hereby amended to read as follows:

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

2. As used in this section:



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

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

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

**Sec. 26.** NAC 641C.555 is hereby amended to read as follows:

641C.555 1. A person may file an accusation with the Board concerning the acts or services provided by a counselor or certified intern. The Board will initially consider any accusation regarding a counselor or certified intern as an informal complaint. Such an informal complaint filed with the Board must be on a form provided by the Board. A complainant shall include in his informal complaint information that is sufficiently detailed so as to enable the respondent to prepare a response. If a complainant is the client of and is complaining about his treatment by a counselor or certified intern, the Board will provide the complainant with a form for a limited waiver of confidentiality regarding his records which the complainant must sign and return to the Board. Such an informal complaint will not be further reviewed or processed by the staff or legal counsel until the signed limited waiver is received by the staff.

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

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

3. If the Board’s staff determines that the informal complaint against a counselor or certified intern has been properly verified and alleges sufficient facts to warrant further proceedings, the staff shall notify the respondent by sending a copy or summary of the informal complaint to the counselor or certified intern by certified mail. The notification must set forth the

potential violations of a provision of this chapter or chapter 641C of NRS arising in the informal complaint and request a response for the review by the Board before a hearing is set. The transmission of the copy or summary of the informal complaint will be deemed to be a notice of intended action pursuant to subsection 3 of NRS 233B.127. Service of the copy or summary of the informal complaint shall be deemed to be complete when a true copy of the document is deposited in the United States mail, postage prepaid and addressed to the last known address on record with the Board of the person to be served.

4. Upon the receipt of a copy or summary of an informal complaint that has been filed against him, a counselor or certified intern shall submit to the Board a written response to the informal complaint within 15 days after the date on which the informal complaint was served. A response to an informal complaint must respond to the allegations made in the informal complaint and be accompanied with all documentation that would be useful to the staff and legal counsel in their review of the allegations made in the informal complaint and the responses made by the counselor or certified intern to those allegations. Failure by a counselor or certified intern to cooperate with the Board during an investigation of an informal complaint, including, without limitation, failing to timely respond to the Board regarding a copy or summary of the informal complaint sent to the counselor by the staff pursuant to this subsection, is a ground for disciplinary action by the Board against the counselor or certified intern.

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

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

(a) Investigate the allegations and employ such people as they deem necessary to further the investigations;

(b) Consult with experts in the appropriate field, including, without limitation, employing such persons for the purposes of an investigation or a hearing;

(c) Investigate new leads and allegations that may come to their knowledge in the course of the investigation;

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

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

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

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

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

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

9. If the staff, legal counsel or investigator, if any, determines that a specific record or other specific evidence is material to or necessary for an investigation, the staff, legal counsel or investigator may remove the record or evidence and provide a copy of the record or evidence to the respondent. If a record or other evidence can be readily copied at the location where the record or evidence is located, the staff, legal counsel or investigator shall make a copy of the record and evidence at that location. If a record or other evidence cannot be readily copied at the

location where the record or evidence is located, the staff, legal counsel or investigator may remove the record or evidence from that location to copy the record or evidence. If the staff, legal counsel or investigator removes a record or other evidence to be copied, the staff, legal counsel or investigator shall provide the person to whom the record or evidence being removed belongs with a receipt for the record or evidence and, not later than 5 business days after the record or evidence is removed, provide a copy of the record or evidence to that person.

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

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

11. A notice of hearing and a formal complaint must:

(a) Be a plain statement of the facts and applicable provisions of statutes and regulations regarding the alleged acts of the respondent alleged to be in violation of the statutes and regulations governing *the clinical practice of counseling alcohol or drug abusers*, the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;

(b) Include the date, time and place that the Board will hear the matter, if this information is known at the time when the notice of hearing and a formal complaint is sent to the respondent; and

(c) Be signed by the legal counsel and, if a member of the Board was active in the investigation, by that member of the Board.

12. The staff shall send a notice of hearing and a formal complaint prepared pursuant to subsection 11 to the respondent named in the notice of hearing and the formal complaint by certified mail. Service of the notice of hearing and the formal complaint shall be deemed to be complete when a true copy of the documents are deposited in the United States mail, postage

prepaid and addressed to the last known address on record with the Board of the person to be served.

13. A respondent who receives a notice of hearing and a formal complaint must file his answer to the notice of hearing and the formal complaint not later than 15 days after the date on which the notice of hearing and the formal complaint were served. An answer to a notice of hearing and a formal complaint filed by a respondent must include a response to each allegation and statement made in the notice of hearing and the formal complaint by either admitting to or denying the allegation or statement. If the counselor or certified intern fails to file an answer as required pursuant to this subsection, he shall be deemed to have admitted each allegation and statement contained in the notice of hearing and the formal complaint. Based on these admissions, the Board may enter a finding and impose appropriate discipline on the counselor or certified intern in the same manner as if the allegations had been proven by substantial evidence at a Board hearing held on the formal complaint.

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

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

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

**Sec. 27.** NAC 641C.560 is hereby amended to read as follows:

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

(a) Communicating confidential information to, or otherwise cooperating with, another agency or board that:

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

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

(3) Regulates or has jurisdiction over the violations of law alleged in a complaint, ↪ if the confidential information to be communicated is relevant to the investigation or regulation of the person or program by the other agency or board; or

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

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

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

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

**Sec. 8.** NAC 641C.632 is hereby amended to read as follows:

**NAC 641C.632 Action by Board after hearing.** (NRS 641C.200)

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

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

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

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

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

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

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

- (IV) The extent to which the respondent demonstrates his good faith;
- (V) Any previous history of violations by the respondent;
- (VI) Whether the respondent knew or, as a competent person, should have known that the action complained of was a violation of law, regulation or a condition of his license *or certificate*;
- (VII) Whether the respondent has initiated remedial measures to prevent similar violations;
- (VIII) The magnitude of penalties imposed on other licensees *or persons with certificates* for similar violations;
- (IX) The proportionality of the penalty in relation to the misconduct; and
- (X) If the respondent offered evidence of mitigating factors, all such evidence;