

**LCB File No. R109-09**

**PROPOSED REGULATION OF THE  
PRIVATE INVESTIGATOR'S LICENSING BOARD**

AUTHORITY: NRS 648.060

Section 1. Amending 648 of NAC:

**UNLICENSED EMPLOYEES**

**General Provisions**

**NAC 648.334 "Person" and "nonlicensed person" interpreted. (NRS 648.030, 648.140)**

1. The board will interpret the word "person," as used in subsection 2 of NRS 648.060, to include a person who:

- (a) Is employed by a licensee on a temporary basis; or
- (b) Performs clerical or administrative services as an employee of a licensee.

The term does not include a licensee.

2. The board will interpret the term "nonlicensed person," as used in subsection 3 of NRS 648.060, to include a person who:

- (a) Is employed by a licensee on a temporary basis; or
- (b) Performs clerical or administrative services as an employee of a licensee.

3. It is unprofessional conduct for a licensee to evade the requirements of NRS 648.060, as interpreted by this section, by falsely representing that an employee of the licensee is an independent contractor.

*1. No person shall be employed as a registered employee unless such person is granted a provisional registration or registered in accordance with NRS 648.060 and these regulations.*

*2. Any person who holds a valid work permit issued before January 1, 2010 shall be deemed to be registered January 1, 2005, and the registration of such person shall be deemed to expire on the expiration date set forth on the work permit, unless objected to by the board, suspended or revoked. If there is no expiration date set forth on the work permit, the registration of such person shall be deemed to expire on the person's birthday in 2009, unless objected to by the board, suspended or revoked.*

***Provisional registration.***

*1. A person is deemed to have a provisional registration upon submission of a completed application for registration to the Board.*

*2. Provisional registration is valid for a period of 120 days after a completed application is received and a local criminal background check is completed unless objected to by the board, or otherwise suspended or revoked.*

*Suspension and reinstatement of temporary registration.*

*1. The board may suspend the provisional registration of an applicant if it determines that:*  
*(a) The application for registration received from the applicant is not complete; or*  
*(b) If the application for registration is not a change of employment notice, the fingerprints submitted by the applicant are illegible or unclassifiable.*

*2. The board shall suspend the temporary registration of an applicant if it determines that the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520 is not completed, not signed, or the applicant indicates on the statement that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

*3. If the board suspends the temporary registration of an applicant pursuant to subsections 1 or 2, it shall notify the applicant and his place of employment of such suspension.*

*4. An applicant whose provisional registration is suspended pursuant to subsections 1 or 2 shall not be eligible to work as a registered employee until such time as he rectifies the cause for such suspension and the board reinstates his temporary registration. If an applicant rectifies the cause for his suspension and the board reinstates his temporary registration, the period of time in which the applicant's temporary registration was suspended pursuant to this regulation shall not be included in measuring the 90-day period in which the board may object to such temporary registration of the applicant.*

*Investigation; uniform criteria for objection; objection.*

*1. Upon receipt of an application for registration, the board shall review it for completeness.*

*2. Unless the board, after reviewing an application for registration, suspends the temporary registration of the applicant, it shall conduct an investigation of the applicant to determine whether he is eligible to be or continue to be registered.*

*3. The board may object to the registration of an applicant within 90 days after receipt of a complete application for registration for any cause deemed reasonable, including any of the specific grounds cited ( in new regulation).*

*4. An objection to the registration of an applicant shall be entered if the applicant:*  
*(a) Has committed, attempted or conspired to commit any offense in violation of NRS 648.060(3).*

*Should moral turpitude be defined: See attachment 1 in e-mail*

*Insert all grounds for denial*

- ✚ Felony conviction – no matter how old*
- ✚ An outstanding warrant of arrest*
- ✚ Extensive criminal, history*
- ✚ Previously revoked work card*
- ✚ Insufficient immigration documentation*
- ✚ Falsification of information on application*
- ✚ Any other denial reason(s) so state under Nevada Revised Statutes*
- ✚ Conviction involving a weapon (use of brandishing, possession, discharging etc) no matter how old*

✚ *Conviction of any Driving Under the Influence (DUI) that occurred within a ten year period previous to the application*

*(a) A person who has been convicted within the past ten (10) years of any of the following:*

*(1) A felony or other crime which under the laws of this state would amount to a felony.*

*(2) Any crime of which fraud or intent to defraud was any element whether committed in this state or elsewhere.*

*(3) Larceny in any degree.*

*(4) Buying or receiving stolen property.*

*(5) Unlawful entry of a building.*

*(6) Illegal use, carrying, possession or display of a pistol or other dangerous weapon.*

*(7) Operating a motor vehicle while under the influence of intoxicating liquor or controlled substances or dangerous drugs*

*(b) A person under the age of 18 years.*

*(c) A person who has been identified as being a member or associate of organized crime, or as being of notorious and unsavory reputation.*

*(d) A person who has been placed and remains in the constructive custody of any federal, state or municipal law enforcement authority.*

*(e) A person who has had a work permit or work card revoked or committed any act which is a ground for the revocation of a work permit or work card or would have been a ground for revoking his work permit or work card if he had then held a work permit or work card.*

*(f) A person who has indicated intemperate habits by his past conduct with a conviction under subsection 2(a)(7) of this section.*

*(g) A person whom the sheriff determines is not a suitable person, having due consideration for the proper protection of the public health, safety, morals, good order and general welfare of the inhabitants of the county.*

*All of the above are cited in Washoe county and Clark county ordinances. This is what was used on a county level for denial of work card.*

*5. If the board objects to the registration of an applicant pursuant to this regulation, the board shall notify:*

*(a) The applicant pursuant to the notice requirement prescribed in NRS 648 and the right to apply for a hearing pursuant to NRS 648; and*

*(b) The applicant's place of employment.*

*The failure of an applicant to seek review of a determination that he is not eligible for Registration shall be deemed to be an admission that the objection is well founded and such failure precludes administrative or judicial review.*

*6. If the board does not object to the registration of an applicant pursuant to this regulation, the applicant shall be deemed registered and is eligible for employment with any licensee licensed pursuant to NRS 648, in the state until such registration expires as prescribed in NRS is suspended, or is revoked.*

*Duties of licensee.*

*1. A licensee shall not knowingly employ any person unless such person has a provisional registration or is registered with the Board. A licensee shall check, and may rely on, the*

*system of records maintained by the board to verify the provisional registration, registration or eligibility of a person seeking employment with such licensee.*

*2. A licensee shall only access the system of records after a person applies for a position with the licensee solely to determine whether the person is registered, provisionally registered, or subject to objection, suspension or revocation. A licensee shall maintain written documentation establishing that it received an application for employment from a person for a position as an employee prior to accessing the system of records and shall retain such documentation for at least 5 years.*

*3. Before a licensee grants any employee access to the system of records maintained by the board, it shall provide the board with the name, social security number and date of birth of such employee. Upon the termination of employment of such employee or the reassignment of such employee to a position that no longer requires him to access the system of records, the licensee shall immediately notify the board of such termination or reassignment. The information contained within the system of records is confidential and must not be disclosed by such employee or the licensee.*

*4. If a licensee determines, after accessing the system of records maintained by the board, that a person seeking employment as an employee with such licensee does not have a provisional registration, registered, and is not subject to objection, suspension or revocation, the licensee shall provide the person with a form for application and instruction as prescribed in subsections 1 and 2 of NRS 648.060 and instruct the person to:*

*(a) Complete the form for application and the statement prescribed in subsections 1 and 2 of NRS 648.060;*

*(b) Obtain two complete sets of fingerprints; or provide a receipt for electronic submission;*

*(c) Obtain a money order, cashier's check in the amount of \$95.00 if submitting two (2) fingerprint cards and \$85 if submitting a receipt for electronic submission; and*

*(d) Unless otherwise prescribed by the chairman, return the application for registration to the Board. If the person's fingerprints are submitted electronically or by another means to the Nevada Records of Criminal History, tangible proof of such shall be included in the application for registration in lieu of the fingerprint cards.*

*A licensee shall not employ a person who is not provisionally registered or registered with the Board until such time as the person complies with this subsection.*

*5. If a licensee determines, after accessing the system of records maintained by the board, that a person seeking employment as an employee with such licensee is subject to objection, suspension or revocation, the licensee shall:*

*(a) Not accept an application for registration from such person; and*

*(b) Notify the person that he must contact the board in order to pursue reversal or removal of such objection, suspension or revocation.*

*6. If a licensee determines, after accessing the system of records maintained by the board, that a person seeking employment as an employee with such licensee is provisionally registered or registered, the licensee shall provide such information into the Board's system of record or on a form prescribed by the Board within 5 business days.*

*7. The application for registration is confidential and shall not be accessed or used for any purpose by a licensee unless otherwise permitted by law, or prior, written consent is given by the person seeking employment.*

8. A licensee shall immediately terminate a person it has employed if the board notifies a licensee that the provisional registration or registration of the person it has employed has been objected to by the board, or otherwise suspended or revoked.

9. Each licensee must maintain a photo of every employee employed by the licensee. The licensee shall maintain the photo for a period of no less than 5 years after the date in which the employee is no longer employed by the licensee. The photo must be large enough and of sufficient clarity to be able to clearly identify the employee from the photo. The photo may be in the form of a photograph or it may be digitally stored, but it must be capable of being reproduced and provided at the request of the board.

10. Any violation of subsections 2 or 3 constitutes an unsuitable method of operation and shall be grounds for disciplinary action by the board.

#### *Change of employment notice.*

1. Whenever a registered employee becomes employed with another or additional licensee, the licensee shall file a change of employment notice by entering the information into the Board's system of records within 5 days of the employee becoming employed with such licensee.

2. A person who is deemed provisionally registered upon the filing of a change of employment notice in accordance with subsection 1 and such provisional registration is valid for a period of 90 days after the change of employment notice is received by the board, unless objected to by the board, or otherwise suspended or revoked.

3. The expiration date of a registration shall not change as a result of the filing of a change of employment notice.

#### *System of records: contents; confidentiality; penalties.*

1. The board shall maintain a system of records that:

(a) Contains information regarding the current place of employment of each person who is registered; and

(b) Identifies each person whose registration has expired, was objected to by the board, or was otherwise suspended or revoked.

2. The system of records may only be accessed by on-line Internet connection and only by those persons or entities authorized by the board.

#### *Petition for hearing to reconsider objection to registration or to reconsider suspension or revocation of registration.*

1. Any person whose application for registration has been objected to pursuant to NRS648, or whose registration has been suspended pursuant to NRS 648- or revoked pursuant to NRS 648, may not request a hearing for reconsideration of the final administrative or judicial action which resulted in such objection, suspension or revocation for a period of one (1) year following the date of such final administrative or judicial action.

2. After the one (1) year period prescribed in subsection 1, an aggrieved person may request a hearing by filing a petition with the board which sets forth the basis of the request for reconsideration. The aggrieved person shall, upon filing such petition, include the statement prescribed in subsections 2 and 3 and, if requested by the board, two new complete sets of fingerprints together with the fee charged by the Central Repository for Nevada Records of Criminal History to process such fingerprints.

*3. Upon receipt of a petition, the board shall conduct an investigation of the person who filed such petition and schedule a hearing.*

*(Create committee for initial review)*

*At the hearing, the committee shall take any testimony deemed necessary. The committee may appoint a hearing examiner and authorize that person to conduct the hearing, including, but not limited to, any of the functions required of the board in the case of hearing conducted pursuant to NRS 648.*

*4. After conducting a hearing pursuant to subsection 3, the committee shall in the case of a petition for reconsideration of:*

*(a) An objection entered pursuant to NRS 648 which is the subject of such hearing, review the testimony taken and any other evidence, and render a decision sustaining, modifying or withdrawing the objection which shall be mailed to the person within 45 days after the date of the hearing; or*

*(b) The suspension of a person's registration pursuant to 648 or the revocation of a person's registration pursuant to NRS 648, adopt a recommendation to the Board to sustain, modify or reverse the administrative or judicial decision which is the subject of such hearing.*

*5. After the committee:*

*(a) Renders a decision pursuant to subsection NRS 648 other than a decision to withdraw an objection or a unanimous decision to sustain or modify an objection; or*

*(b) Adopts a recommendation pursuant to (subsection) NRS 648 it shall present such decision or recommendation to the Board at the next meeting.*

*In the case of a unanimous decision to sustain or modify an objection which is rendered by the board pursuant to subsection NRS 648 the committee is not required to present it to the Board unless the person aggrieved by the decision applies in writing to the Board for review of such decision within 15 days after the announcement of the decision. The failure of the person to apply for a review within such 15-day period shall be deemed to be an admission that the unanimous decision of the committee sustaining or modifying the objection is well founded and, pursuant to subsection NRS 648, such person may not file another petition pursuant to this regulation for a period of five (5) years after the date of the board's decision, or such lesser period of time as may be ordered by the board.*

*6. The Board, in reviewing a decision or recommendation of the committee, may sustain, modify or reverse the decision or recommendation of the committee or remand the petition to the committee for such further investigation or reconsideration as the Board may order. The review by the Board of a committee decision or recommendation is limited to the record of the proceedings before the committee.*

*7. An aggrieved person who files a petition pursuant to this regulation may submit a written request for withdrawal of such petition to:*

*(a) The committee at any time prior to the committee rendering a decision or adopting a recommendation to the Board pursuant to subsection NRS 648; or*

*(b) The Board at any time before the Board has acted upon a decision or recommendation of the committee pursuant to subsection NRS 648.*

*8. If a person who files a petition pursuant to this regulation is deemed eligible for employment as a registered employee, such person shall file a change of employment notice with the board by submitting it to the licensee for whom he becomes employed as a registered*

*employee within 10 days, unless otherwise prescribed by the chairman. Unless objected to by the board, or otherwise suspended or revoked, the registration of such person as a registered employee expires 5 years after the date employment commences with the applicable licensee. Such registration shall be subject to any limitations and conditions that are prescribed by the committee or Board.*

*9. If a person who files a petition pursuant to this regulation is deemed ineligible for employment as a registered employee, such person may not file a new petition for a period of five (5) years after the date of final committee or Board action, as the case may be, or such lesser period of time as may be ordered by the committee or Board. Any such petition shall be processed in accordance with the applicable provisions of this regulation.*

*10. A person who has been convicted of a felony may not file a petition for review.*

**NAC 648.340 Registration fee.** (NRS 648.030, 648.140) ~~Each licensee shall pay a registration fee of \$8.50 for each of his unlicensed employees, except clerical employees.~~  
*Each applicant shall pay a registration fee of \$95.00 if submitting two (2) fingerprint cards and \$85.00 if applicant has receipt for electronic submission of fingerprint cards. This fee must accompany his application. This fee is in addition to the fee for processing fingerprints either electronically or submitting fingerprint cards directory to the Board for processing.*