

INFORMATIONAL STATEMENT

A. Need and Purpose of the Proposed Regulation

R 141-20 RP1 Complaint Procedures, Disciplinary Actions and Complaint Investigations

Complaint Procedures and Disciplinary Actions

The adopted regulations codify the board's Rules of Practice relating to procedures for handling complaints against licensees. To protect a person's due process rights, the board uses a Board member designated by the Board Chairperson, a "Board Liaison", to review the initial investigative information in conjunction with the Executive Director and Board legal counsel and make a determination on the complaint. The "Board Liaison" is recused from ruling on accepting a stipulated agreement or adjudicating the case at a formal hearing due to their expanded knowledge of investigative materials related to the complaint. Additional proposed amendments extend the timeframe for notification to the board of disciplinary action against a licensee by another jurisdiction. A revision is being proposed to limit the board to probationary conditions to address legislator concerns of over-broad impositions on licensees.

Section 1 defines "Board Liaison" as it relates to the amendments in the regulation.

Section 2 is for reference as to where in Chapter 625 the definition of "Board Liaison" will be located.

Section 3 amends the regulation, in alignment with the board's Rules of Practice, relating to the role of a "Board Liaison" in complaint procedures.

Section 4 extends reporting time for disciplinary actions by another entity.

Section 5 adds text to limits any "other conditions" relating to disciplinary sanction, to the facilitation of probation.

Complaint Investigations

As the regulation was written, an Advisory Committee conference was held in a public setting, and subject to Nevada Open Meeting Law where the conference is a public record and board members who would ultimately rule on the disposition of a complaint would have access to the public information prior to

adjudicating the matter via the administrative law process. The complaint, at this stage is still in the investigative discovery phase – which by regulation is confidential. Board members could either be exposed to information beyond that outlined in the final findings of facts presented to the Board in proposed stipulated agreements or be privy to evidence agreed to as inadmissible in possible Formal Hearings. These actions could be a violation of a respondent’s due process rights.

Advisory Committees are beneficial in the investigative process, particularly with complaints relating to standards of practice or those of a unique technical nature. The adopted changes move the Advisory Committee conference from the public process to the complaint investigation setting to ensure the due process rights of a complaint respondent, unless the respondent requests otherwise.

Sections 6, 7, 8, and 9 amend the regulation to codify the board’s revised Rules of Practice and to move Advisory Committees to the investigative phase of the complaint process.

Please note in section 7, 1. (d) the regulation amendment was adopted without the text following the period - “[: and 6. Inform the Board of the recommended disposition of the complaint” The text is to be deleted as it is a remnant of the original section text was inadvertently left in when revisions were made by the Legislative Council Bureau. Also to be noted, in section 9, 2. regulation was adopted with the word “participate” corrected to read “participate”.

B. Description of How Public Comment was Solicited, Response Summary, and Explanation of How Interested Parties May Obtain a Copy of Summary

In accordance with the requirements of NRS 233B.061 a public workshop was held virtually on June 30, 2020. Notice was given in excess of 30 days for the virtual workshop, and e-mails were sent to 15,732 addresses of interested parties notifying them of the workshops and with direct links to relevant documentation. Public comment was received at the workshops. The minutes of the workshops are available to view at the Nevada Board of Professional Engineers and Land Surveyors website, <https://nvbpels.org/board/meetings>.

A Public Hearing was held virtually on November 18, 2021. The hearing was noticed in excess of the 30-day public posting requirement, and e-mails were sent to 16,949 addresses of interested parties notifying them of the hearing and with direct links to relevant documentation. No public comment was received

before the hearing. The minutes of the November 18, 2021, Public Hearing are available to view at the Nevada Board of Professional Engineers and Land Surveyors website at <https://nvbpels.org/board/meetings/>.

No public comment was made relating to regulations in R 141-20RP1 at the Public Workshop.

C. Number of Persons Who Attended Each Workshop or Hearing, the Persons Who Offered Oral or Written Comments, and, if Provided, Their Contact Information and the Name of the Entity the Person Represents

Workshop held virtually June 30, 2020.

Twenty-two people participated. No written or oral comments were made relating to regulations in R 141-20RP1. The minutes of the June 30, 2020, Public Workshop are available to view at the Nevada Board of Professional Engineers and Land Surveyors website at <https://nvbpels.org/board/meetings/>.

Public Hearing held virtually November 18, 2021.

Twelve people participated. No written or oral comments were made relating to regulations in R 141-20RP1. The November 18, 2021, Public Hearing minutes are available for view on the Nevada Board of Professional Engineers and Land Surveyors website at <https://nvbpels.org/board/meetings/>.

D. Description of How Comment was Solicited from Affected Businesses and Response Summary

Referencing the requirements of NRS 233B.0608, the Nevada Board of Professional Engineers and Land Surveyors requested input from owners and officers of professional engineering and land surveying small businesses via e-mailed survey link that was sent to 15,732 interested parties.

The survey asked for input regarding both direct and indirect adverse and beneficial economic effects on small businesses, with space to elaborate on responses. A summary of the survey results is available for viewing on the Nevada Board of Professional Engineers and Land Surveyors website <https://nvbpels.org/wp-content/uploads/2020/12/Category-5-Survey-Results.pdf>.

E. If the Regulation was Adopted Without Changing Any Part of the Proposed Regulation, a Summary of Reasons for Adopting it Without

Change

The regulations were adopted with the revisions made by the Legislative Counsel Bureau and the two edits noted earlier.

F. Estimated Economic Effect of the Regulation on the Business Regulated and, on the Public

a. Adverse Effects

There are no adverse effects, immediate or long term, on businesses or the public from the adopted regulations related complaint procedures, disciplinary actions, and complaint investigations.

b. Beneficial Effects

There are no apparent beneficial effects, immediate or long term, on businesses or the public from the adopted regulations related complaint procedures, disciplinary actions, and complaint investigations.

G. Estimated Cost to the Agency of Enforcement

There are no estimated additional costs to the regulatory board to enforce the regulations.

Duplicative Regulations

There are no regulations of other state or local agencies which these regulations overlap or duplicate.

H. Provisions More Stringent than Federal Law

The regulations are not federal requirements and, thus, no federal law exists regulating the same activity.

I. New Fees or Increases in Existing Fees

The regulations do not involve an increase to existing fees or create any new fees.