

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R128-21**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 641.

1. A clear and concise explanation of the need for the adopted regulation.

This regulation establishes requirements governing the use of a recording of the provision of psychological services to a patient for a training activity. The Board of Psychological Examiners proposed the regulation in order to comply with the provisions and intent of Assembly Bill 366 (2021). That bill was proposed by the Board in order to clarify that such training recordings should not be part of the medical record.

This regulation requires that the form on which a patient provides informed written consent for the use of a recording in a training activity must inform the patient of the following: who will have access to the recording, the manner in which it will be stored and kept confidential, and the time frame for the destruction of the recording. This section of the regulation was created to ensure full transparency with individuals receiving psychological services, including the ways in which a training recording may be used when services are provided by a psychological assistant, psychological intern, or psychological trainee.

This regulation establishes that a person having custody or control of a recording that is used or maintained for the purpose of a training activity shall maintain the recording in accordance with confidentiality laws, and ensure the recording is destroyed upon completion of its use by the supervisor of the training activity, or thirty (30) days after the date on which the recording was made. This section of the regulation complies with the provisions of Assembly Bill 366 (2021) which required regulation be created for this purpose.

The definitions of "recording" and "training activity" have been included for the purposes of this regulation. The definitions allow for clarity by psychological licensees, supervisors, supervisees, and the general public.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Notices of workshop and notices of intent to act upon the regulation were sent to persons who were known to have interest in the application requirements of psychologists in the state of Nevada, as well as any specific person who requested notification regarding regulation changes. Such distribution included further information on how to receive a free copy of the proposed regulation. These documents were also made available through the website of the Board of Psychological

Examiners, psyexam.nv.gov or by directly emailing the Board office (NBOP@govmail.state.nv.us), and posted at the locations listed below.

Board of Psychological Examiners
4600 Kietzke Lane B-116
Reno, Nevada 89502

A workshop was held to discuss language changes to the current NAC 641 on September 10, 2021, and the minutes of the meeting, which can be obtained through contacting the Board office or locating them on the Board's website Psyexam.nv.gov, contain a summary of the discussion held regarding the proposed language change. No written or public comment was submitted.

Thereafter, on or about April 1, 2022, the Board of Psychological Examiners issued a Notice of Intent to Act Upon a Regulation which incorporated the proposed amendment that was discussed at the above workshop. That notice included a request for submission of public comment regarding adoption of the regulation.

On May 6, 2022, a public hearing was held, where the Board of Psychological Examiners received testimony from three members of the public. No written public comment was received. The Board of Psychological Examiners approved adoption of the proposed regulation R128-21 with two changes. The first, related to the definition of recording, changed the word "tape" to "recording." The second clarified language related to the destruction date for recordings of training activities.

3. The number of persons who:

- (a) Attended each hearing:** September 10, 2021- 3; May 6, 2022 - 11
(b) Testified at each hearing: September 10, 2021- 0; May 6, 2022 - 3
(c) Submitted to the agency written comments: September 10, 2021- 0; May 6, 2022 - 0

4. A list of names and contact information, including telephone number, business address, business telephone number, e-mail address, and name of entity or organization represented for each person identified above in #3, as provided to the agency;

September 10, 2021:

None

May 6, 2022:

Dr. Jodi Thomas, Licensed Psychologist
Dr. Brian Lech, Licensed Psychologist
Dr. Yani Dickens, Director of Counseling Services at the University of Nevada, Reno

5. A description of how comment was solicited from affected business, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The request for input regarding impact was sent to all licensees of the Board of Psychological Examiners. The summary of the discussion by the Board may be obtained through the minutes; which can be obtained through contacting the Board office or locating them on the Board's website, psyexam.nv.gov. No written comment was submitted and testimony comment was provided by three members of the public at the public hearing.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Comment was received that resulted in two revisions to the language of the regulation.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be state separately, and each case must be included:

***Economic effects on regulated businesses:**

- a) Adverse, immediate: There are no estimated adverse effects from this regulation.
Adverse, long-term: There are no estimated adverse effects from this regulation.
- b) Beneficial, immediate: There are no estimated economic effects in this regulation.
Beneficial, long-term: There are no estimated economic effects in this regulation.

***Economic effects on public:**

- a) Adverse, immediate: There are no estimated economic effects in this regulation.
Adverse, long-term: There are no estimated economic effects in this regulation.
- b) Beneficial, immediate: There are no estimated economic effects in this regulation.
Beneficial, long-term: There are no estimated economic effects in this regulation.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no increased cost for enforcement of the change.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explain why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Board is not aware of any overlapping or duplicating of federal or state regulations.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no federal regulations that apply.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

There are no new fees nor increases to an existing fee.

Regulation adopted by the State of Nevada Board of Psychological Examiners on May 6, 2022.