

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R095-23**

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 was in response to 2023 AB244, which, as enacted, violates ethics codes for licensed Psychologists as it relates to psychological examinations and testing. [See the Nevada Board of Psychological Examiners' Statement in Response to 2023 AB244](#). The Nevada Board of Psychological Examiners (Board) considered and adopted the regulation revisions in order to address the impact that 2023 AB244 had on Nevada's Psychologists who undertake psychological examinations and administer standardized measures.

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.

Notice of a public workshop and notices of intent to act upon the regulation were sent to persons who were known to have interest in the impact of 2023 AB244 on Nevada's licensed Psychologists in the context of their ethical obligations, to the Board's licensees, and to any specific person who requested notification regarding regulation changes. That 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 were posted at the following locations:

Prior to March 1, 2024:

State of Nevada
Board of Psychological Examiners
4600 Kietzke Lane B-116
Reno, Nevada 89502¹

After March 1, 2024:

State of Nevada
Board of Psychological Examiners
3080 South Durango Drive, Ste 102
Las Vegas, Nevada 89117²

The Board held a workshop on October 13, 2023, to discuss the proposed changes to the current NAC Chapter 641. The minutes of that 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 regarding the proposed changes. There was no written or verbal public comment related to the regulation revisions at that workshop.

¹ At the time the Board held its October 13, 2023, regulations workshop, the Board office was at this location. The Board office moved to its new location effective March 1, 2024.

² At the time the Board held its March 8, 2024, April 12, 2024, and June 7, 2024, regulations hearings, the Board office was at this location.

On February 6, 2024, after the Board received the LCB's draft of the Board's proposed regulation changes in response to 2023 AB244, the Board issued and posted a Notice of Intent to Act Upon a Regulation, which incorporated the proposed regulation changes that the Board discussed at its October 13, 2023, regulations workshop. That notice included a request for submission of public comment regarding adoption of the regulation.

On March 8, 2024, the Board conducted a public hearing on R095-23 during its regular Board meeting. The minutes of that 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 regarding the proposed changes. The Board received verbal public comment from four members of the public in attendance at the meeting, but no opposition to the adoption of the regulation. The public comments generally concerned regulation wording to ensure clarity, distinctions in and/or definition of terms included in the regulation, the relationship between the regulation and NRS Chapter 629, and references to applicable standards and how those standards address protected psychological test information. As a result of that public comment, the Board continued the hearing until a future Board meeting so that the proposed regulation could be further revised.

On March 12, 2024, the Board issued and posted a Notice of Intent to Act Upon a Regulation, which incorporated the proposed regulation changes that the Board discussed at its March 8, 2024, regulations hearing. That notice included a request for submission of public comment regarding adoption of the regulation.

On April 12, 2024, the Board conducted a public hearing on R095-23 during its regular Board meeting. The minutes of that 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 regarding the proposed changes. The Board had received two written comments prior to the hearing and received verbal public comment from three members of the public in attendance at the meeting, including inquiries regarding the regulation revisions, but no opposition to the adoption of the regulation. The verbal public comments and inquiries concerned how the regulation relates to the requirements in NRS Chapter 629 (a client's access to data), reference to the source that addresses where test data becomes test material, and the fact that psychologists are not the only ones who can buy and use testing from test publishers. The written public comment provided suggestions for regulation wording and how the proposed regulation relates to the relevant provisions of the APA code of conduct. As a result of that public comment, the Board revised the R095-23 draft and submitted those revisions to the Legislative Counsel Bureau (LCB) for review and approval.

On May 6, 2024, the Board issued and posted a Notice of Intent to Act Upon a Regulation, which incorporated the proposed regulation changes that the Board discussed at its April 12, 2024, regulations hearing. That notice included a request for submission of public comment regarding adoption of the regulation.

On June 7, 2024, after the Board received an approved, revised R095-23 draft from the LCB, the Board conducted a public hearing on R095-23 during its regular Board meeting. The minutes of that 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 regarding the proposed changes. The Board did not receive any written or verbal public comment related to the proposed, revised changes. The Board approved the adoption of proposed regulation R095-23 at the conclusion of that hearing.

3. The number of persons who:

(a) Attended each hearing: March 8, 2024- 10
 April 12, 2024 – 13
 June 7, 2024 – 6

(b) Testified at each hearing: March 8, 2024- 4
 April 12, 2024 – 3
 June 7, 2024 – 0

**(c) Submitted to the agency
written comments:** March 8, 2024- 0
 April 12, 2024 – 2
 June 7, 2024 – 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:

March 8, 2024:

Teri Belmont (Psychologist)
Yvonne Fritz (Psychologist)
Brian Lech (Psychologist)
Thomas Kinsora (Psychologist)
Lauren Chapple-Love (Psychologist)
Kevin Austin Gardner
Donald Hoier (private citizen)
Brian Joseph (investigative journalist)
Sabrina Schnur (Belz & Case Government Affairs)
Brent Vogel (Attorney)

April 12, 2024:

Teri Belmont (Psychologist)
Shera Bradley (Psychologist)
Amanda DeVillez (Psychologist)
Yvonne Fritz (Psychologist)

Brian Lech (Psychologist)
Jodi Thomas (Psychologist)
Marie Zayas (Psychologist)
Andre Wielemaker (Applicant)
Kaleb Cusack (Applicant)
Donald Hoier (private citizen)
Brian Joseph (investigative journalist)
Sabrina Schnur (Belz & Case Government Affairs)
Brent Vogel (Attorney)

June 7, 2024:

Teri Belmont (Psychologist)
Kaleb Cusack (Applicant)
Claudia Mejia (Nevada Psychological Association)
Don Hoier (private citizen)
Brian Joseph (investigative journalist)
Sabrina Schnur (Belz & Case Government Affairs)

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

The Board solicited comments from affected businesses in the same manner as they were solicited from the public. Notice of a public workshop and notices of intent to act upon the regulation were sent to persons who were known to have interest in the impact of 2023 AB244 on Nevada's licensed Psychologists and their ethical obligations, to the Board's licensees, and to any specific person who requested notification regarding regulation changes. The public comments that the Board received during those noticed meetings/workshop/hearings are summarized above. The summary of the Board's discussions during those meetings/workshop/hearings may be obtained through the minutes, which will be provided and/or made available by contacting the Board office or locating them on the Board's website (psyexam.nv.gov).

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.

As explained above, the regulation was revised more than once based on public comment and feedback. The revisions were submitted to and approved by the Legislative Counsel Bureau.

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 small businesses:**

- a) Adverse, immediate: There are no estimated immediate adverse effects from this regulation.
Adverse, long-term: There are no estimated long-term adverse effects from this regulation.
- b) Beneficial, immediate: There are no estimated immediate beneficial economic effects in this regulation.
Beneficial, long-term: There are no estimated long-term beneficial economic effects in this regulation.
- c) Direct, immediate: There are no estimated immediate direct effects from this regulation.
Direct, long-term: There are no estimated long-term direct effects from this regulation.
- d) Indirect, immediate: There are no estimated immediate indirect effects from this regulation.
Indirect, long-term: There are no estimated long-term indirect effects from this regulation.

***Economic effects on public:**

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

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

To the extent that the revised regulation would require enforcement, there will be no increased cost for enforcement of the changes.

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.

The State of Nevada Board of Psychological Examiners approved the adoption of this regulation on June 7, 2024.