

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

LCB File No. R097-00

June 28, 2000

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-24, 26-28 and 30-85, NRS 641C.200; §25, NRS 641C.200 and 641C.290; §29, NRS 641C.200 and 641C.470.

Section 1. Chapter 641C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 85, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicant” means a person who applies for any license, certificate or approval from the board.*

Sec. 4. *“Board” means the board of examiners for alcohol and drug abuse counselors.*

Sec. 5. *“Client” means a natural person, couple or family who receives counseling services for alcohol and drug abuse.*

Sec. 6. *“Complainant” means a person who complains to the board of any act of another person subject to the jurisdiction of the board.*

Sec. 7. *“Counselor” means person who is licensed or certified as an alcohol and drug abuse counselor.*

Sec. 8. *“Detoxification” means the monitoring of a person who is at risk of suffering from the adverse physiological or psychological effects of withdrawal from alcohol or another drug to bring the person safely to a state that is free of the drug.*

Sec. 9. *“Hour of continuing education” means 50 minutes of instruction devoted to a program of continuing education which is related to the practice of counseling alcohol and drug abusers.*

Sec. 10. *“Investigator” means an investigator of the board who is investigating a complaint filed with the board and includes, without limitation, any member of the board who is active in such an investigation.*

Sec. 11. *“Legal counsel” means the legal counsel of the board.*

Sec. 12. *“Respondent” means a person against whom a complaint is filed or an investigation is initiated.*

Sec. 13. *“Staff” means the staff of the board.*

Sec. 14. *“Treatment” means the care of a person with a substance use disorder through detoxification, medication or counseling, or any combination thereof.*

Sec. 15. *If any provision of this chapter or any application thereof to any person, thing or circumstance is held invalid, the board intends that such invalidity not affect the remaining provisions, or application of those provisions, to the extent that they can be given effect.*

Sec. 16. *As used in this chapter and in NRS 641C.350, 641C.390 and 641C.420, the board will interpret the term “field of social science” to mean any program in counseling alcohol and substance abusers, psychiatry, psychology, social work, marriage and family therapy, nursing, medicine or any other program related to the study of the human mind and mental illness.*

Sec. 17. The staff shall carry out, on behalf of the board, any administrative or ministerial duties and tasks necessary for the implementation of this chapter and chapter 641C of NRS, as delegated to the staff by the board.

Sec. 18. Whenever a person subject to the jurisdiction of the board provides counseling to alcohol or drug abusers, 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.

Sec. 19. A counselor shall prominently display at all times in his primary place of employment or practice the license or certificate issued to him by the board, or a notarized copy thereof.

Sec. 20. A certificate as an alcohol and drug abuse counselor intern issued by the board to a certified intern must be prominently displayed at all times at each location where the intern is engaging in his internship.

Sec. 21. 1. A copy of the list of names and professional addresses of each person licensed or certified by the board may be obtained from the board upon written request and payment of the cost of reproduction.

2. If a person licensed or certified by the board changes his professional address, the person shall furnish the board with his new professional address not later than 10 days after the change.

Sec. 22. 1. An applicant for a license or certificate as an alcohol and drug abuse counselor or a certificate as an alcohol and drug abuse counselor intern must file a completed application which documents that the applicant meets the qualifications for the license or certificate for which he is applying. An applicant must include a nonrefundable fee for the

materials required to apply for the type of licensure or certification sought. The amount of the fee required by this subsection is equal to the amount required by the testing company used by the board for those materials necessary to test the applicant.

2. For good cause, the board may allow an applicant to present at a meeting of the board documentation and other evidence, in addition to the documentation and evidence which he has previously submitted with his application, to demonstrate further his qualifications for licensure or certification.

3. By submitting his application, an applicant for licensure or certification grants the board full authority to make any investigation or personal contact necessary for the board to verify the authenticity of the matters and information stated within the application. If the board so requests, an applicant shall supply such information as the board may require to verify the matter and information contained in his application.

4. If the board determines that it is necessary, the board will appoint a subcommittee to examine an application and make recommendations to the board concerning that application.

5. If the board determines that it is necessary, the board will require an applicant for licensure or certification to appear personally before the board. A personal appearance of an applicant for the purposes of this section may be conducted in an open or a closed session of the board as the board determines appropriate.

6. An applicant for licensure or certification who is a graduate of a foreign program must submit documentation to the board that demonstrates to the satisfaction of the board that the foreign program from which the applicant graduated is equivalent to a comparable program from an accredited college or university.

7. As used in this section, “accredited college or university” means a college or university that is accredited by a national or regional accrediting agency that is recognized by the United States Department of Education.

Sec. 23. 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 an alcohol and drug abuse counselor intern and the application is determined to be complete and it provides evidence that the applicant has satisfied all the requirements for certification as an intern, the board will issue a certificate as an alcohol and drug abuse counselor intern to the applicant.

4. The staff may, not later than 30 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; or*

(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.

FLUSH *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 30 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. 24. *The board will accept as satisfactory evidence of the age of the applicant a copy of his birth certificate, passport, baptismal certificate or driver's license, or any other documentation regarding age determined to be satisfactory to the board.*

Sec. 25. 1. *An applicant for licensure or certification as a counselor must pass each section of an examination required by the board with a score of at least 70 percent.*

2. The board will mail the results of the written and oral examinations taken by an applicant for licensure or certification to the applicant at his last known address.

3. An applicant for licensure or certification who fails the examination may retake the examination when it is next offered if the applicant applies to the board to retake the examination and submits a nonrefundable fee. The amount of the fee required by this subsection is equal to the amount required by the testing company used by the board for those materials necessary to test the applicant.

4. An applicant for licensure or certification who fails an examination and who does not retake the examination when it is next offered must submit a new application if he wants to take the examination again.

5. An applicant for licensure or certification who fails the examination for licensure or certification three times may not take the examination again until he has appeared before the board. The board will examine the qualifications of such an applicant to sit for an additional examination. The board may condition the applicant's taking of an additional examination as the board deems necessary and appropriate.

Sec. 26. 1. *An application for the renewal of a license or certificate must be completed on a form provided by the board and submitted to the board on or before the date on which the license or certificate expires. An application for the renewal of a license or certificate must be accompanied by the appropriate renewal fee.*

2. If a complete application for the renewal of a license or certificate, including the required fee, is not postmarked on or before the last day for submitting the application for the renewal of the license or certificate, the license or certificate becomes delinquent.

Sec. 27. 1. *Fees and remittances to the board must be made by money order, bank draft or check payable to the board.*

2. Payment in full of all required fees must accompany each application for licensure or certification and each application for the renewal of licensure or certification.

3. The board will consider an application for licensure or certification to have lapsed if no action has been taken by the applicant for 1 year after the date on which the board received the application. If an applicant for licensure or certification whose application has lapsed pursuant to this subsection subsequently wishes to receive a license or certificate from the

board, the applicant must submit a new application for licensure or certification accompanied by the required fees.

Sec. 28. 1. A 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 certified intern may provide any of the services described in subsection 1 subject to the clinical supervision and allowance by the licensed 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 counselor supervising the certified intern.

3. Except as otherwise provided in NRS 641C.130, the provision of counseling services 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 which is subject to the provisions of this chapter and chapter 641C of NRS.

4. *A person who engages in the practice of counseling alcohol and drug abusers may represent himself as:*

(a) *A licensed counselor, or use the initials “LADC” after his name, only if the counselor is licensed as such by the board.*

(b) *A certified counselor, or use the initials “CADC” after his name, only if he is certified as such by the board.*

5. *A certified intern may represent himself as a certified alcohol and drug abuse counselor intern except that his representation must assure that a client does not confuse or misunderstand the fact that the certified intern is not a licensed or certified counselor.*

Sec. 29. *The board will charge and collect the following fees:*

1. *For the initial application for a license or certificate\$50*
2. *For the issuance of a provisional license or certificate\$45*
3. *For the issuance of an initial license or certificate\$50*
4. *For the renewal of a license or certificate as an alcohol and drug abuse counselor.....\$125*
5. *For the renewal of a certificate as an alcohol and drug abuse counselor intern\$30*
6. *For the renewal of a delinquent license or certificate\$75*
7. *For the restoration of an expired license or certificate\$150*
8. *For the restoration or reinstatement of a suspended or revoked license or certificate\$300*
9. *For the issuance of a license or certificate without examination\$100*
10. *For an examination.....\$50,*

plus the amount required by a testing company, if any, used by the board for testing applicants.

Sec. 30. *An applicant for licensure without examination pursuant to NRS 641C.300 must submit to the board:*

- 1. A written application on a form prescribed by the board;*
- 2. The applicable fee;*
- 3. Proof satisfactory to the board that the license or other credential held by the*

applicant:

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

(b) Is currently valid and in good standing; and

(c) Has never been suspended, revoked or otherwise restricted for any reason; and

4. Proof satisfactory to the board that the applicant is otherwise qualified to engage in the practice of counseling alcohol and drug abusers.

Sec. 31. *If an applicant for licensure or certification holds or previously held a similar license or 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 restricted, or if the applicant has otherwise been subjected to any discipline for any reason by the entity which issued the license 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 to the applicant or deny his application for licensure or certification.*

Sec. 32. 1. *A counselor or certified intern may deactivate his license or certificate for a 12-month period. To deactivate his license or certificate, a counselor or certified intern must:*

- (a) Be in good standing with the board and not under any investigation by the board; and*
- (b) Submit to the board a written application on a form prescribed by the board.*

2. *A counselor or certified intern may reactivate his license or certificate at any time during the period in which the license or certificate is deactivated. To reactivate his license or certificate, a counselor or certified intern must:*

- (a) Be in good standing with the board and not under any investigation by the board; and*
- (b) Submit to the board a written application on a form prescribed by the board.*

3. *If a deactivated license or certificate is not reactivated before the end of the period for which the license or certificate is deactivated, the board will consider the license or certificate to have expired and the license or certificate may only be renewed pursuant to NRS 641C.460.*

Sec. 33. 1. *To be eligible to supervise a certified intern, a licensed counselor must:*

- (a) 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 been licensed by the board for at least 2 years and have engaged in the practice of counseling alcohol and drug abusers for at least 2 years.*

2. *A licensed counselor may not supervise a certified intern until he has:*

- (a) Submitted a completed application to the board on a form provided by the board; and*
- (b) Received notification from the board that it has approved his application.*

3. The board will maintain a list of the names of the licensed counselors who have been approved to supervise interns and, upon request, will provide a copy of that list to any applicant for certification as an alcohol and drug abuse counselor intern.

4. A licensed 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 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 counselor.

6. A licensed 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. 34. 1. *Any hours which a certified intern accumulates while:*

(a) Working under the supervision of a counselor who has not been approved by the board to supervise alcohol and drug abuse counselor interns;

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

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(c) Engaged in any activities that are not within the scope of the practice of counseling alcohol and drug abusers, or the provision of any services relating thereto, will not be counted toward the number of hours necessary to become a licensed or certified counselor.

2. 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 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 withdraws from his courses such that he is no longer enrolled in at least 3 credit hours for a given semester, the certified intern may not work as a certified intern during the remainder of that semester, and any hours which he accumulates during this time working as a certified intern will not be counted toward the number of hours necessary to become a licensed or certified counselor. 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 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.

3. 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. 35. 1. A licensed 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; and*
- (g) The certified intern is familiar with the current literature concerning those areas of alcohol and drug abuse counseling which are relevant to his area of practice.*

2. A licensed counselor who is supervising a certified intern shall:

(a) Communicate with the certified 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 intern in his practice.

(b) Prepare a progress report for each period of certification in which the licensed counselor supervises the certified intern, on forms provided by the board, concerning the progress of the certified intern in his practice.

(c) Be available to consult with the board about a certified intern being supervised by the licensed counselor concerning the record, competence in practice, emotional and mental stability, and professional and ethical conduct of the certified intern.

3. Upon the completion of the period of certification, if the certified intern seeks to renew his certification as an alcohol and drug abuse counselor intern and continue his practice as a certified intern under the supervision of the licensed counselor, the licensed counselor shall ensure that the progress report prepared by the licensed 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 counselor ceases or is otherwise terminated, the licensed 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.

4. A licensed 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. 36. *The board will withdraw its approval for a licensed counselor to supervise certified interns if:*

1. The licensed 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 counselor is submitted to the board as required in section 35 of this regulation; or

(d) Knowingly allows a certified intern under the supervision of the licensed 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 counselor to supervise certified interns is appropriate under the circumstances.

Sec. 37. 1. *To maintain his licensure or certification, as appropriate, a counselor must attend at least 40 hours of continuing education during the 2-year period of licensure or certification.*

2. To maintain and renew his certification as an alcohol and drug abuse counselor intern, a certified intern must attend:

(a) At least 15 hours of training during his first 6 months of certification;

(b) At 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 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 taking the subsequent program of continuing education.

4. 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. 38. 1. *An application for the renewal of a license or certificate as an alcohol and drug abuse counselor must be accompanied by an affidavit evidencing the completion by the counselor of at least the minimum number of required hours of continuing education during the 2 years immediately preceding the date of the application. The board will randomly select such affidavits to verify the authenticity of the information set forth in the affidavit.*

2. A counselor shall maintain sufficient documentation verifying the information which he includes in his affidavit relating to his continuing education for at least 3 years after the date on which the affidavit is executed. A counselor will not be given credit for any hours of continuing education that are not supported by documentation.

Sec. 39. 1. A counselor will receive credit for hours of continuing education only if the course or program of education from which the counselor obtained the hours of continuing education has been approved by the board.

2. The provider of a course or program of education may request the approval of the board for the purposes of continuing education.

3. A counselor may request the approval of a course or program of education which is not currently approved by the board for the purposes of this section by submitting to the board a request for the approval of the course or program of education as a course of continuing education. The request must contain such information as is necessary for the board to review the course or program of education pursuant to this section and sections 40 and 41 of this regulation.

4. The board will use the same criteria in its review and evaluation of a course or program of education as a course of continuing education, regardless of whether the request for approval was submitted by a counselor or the provider of the course or program of education.

Sec. 40. The board will not approve any of the following types of courses and programs of education as a course of continuing education:

1. An orientation program for new employees.

2. *An on-the-job training program presented by an agency whose primary purpose is to disseminate information on the policies or procedures of the agency.*

3. *An audio or a video learning tape or home study course for which there is no independent verification of successful completion.*

4. *A program for self-improvement.*

Sec. 41. 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 alcohol and drug abuse and is applicable to the practice of counseling alcohol and drug abusers;*

(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, correspondence courses that do not lead to a degree and on-the-job training as being appropriately designed for instructional purposes.*

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 bureau of alcohol and drug abuse in 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 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;*
- (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; or*

(g) Any other similar occupational licensing board in another state, territory, protectorate or the District of Columbia.

Sec. 42. *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 practice of counseling alcohol and drug abusers, 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 practice of counseling alcohol and drug abusers.

Sec. 43. *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 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 of alcohol and drug abusers.

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 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 or the scope of his license or certificate.

10. Shall base his practice upon the recognized knowledge relevant to alcohol and drug abuse counseling.

11. Shall critically examine and keep current with emerging knowledge relevant to the practice of counseling alcohol and drug abusers.

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

FLUSH *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.*

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 of 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 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.

Sec. 44. 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.

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 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 or certified intern treating the client, the counselor or certified intern 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 abuse of alcohol and other drugs; 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.

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. 45. *For the purposes of subsection 4 of NRS 641C.700, the board will consider the following acts by a counselor or certified intern to constitute professional incompetence:*

- 1. Performing services for alcohol and drug abuse counseling as a certified intern without being enrolled in course work as required by this chapter and chapter 641C of NRS.*
- 2. Performing services for alcohol and drug abuse counseling as a counselor or certified intern under a license or certificate that has lapsed or been deactivated.*
- 3. Failing to cooperate with any investigation of a complaint filed against the counselor or certified intern, including, without limitation, denying or failing to cooperate with a request for records made by the board.*

Sec. 46. *A person who is providing a clinical service for the abuse of alcohol and other drugs 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. 47. *A counselor or certified intern:*

- 1. Shall inform prospective clients of financial arrangements for payment of services before he provides any service to that client.*
- 2. Shall maintain accurate records of:*
 - (a) The fees which he charges a client; and*
 - (b) Any payments made by the client.*
- 3. Shall make his records maintained pursuant to subsection 2 available to the client for review upon the request of the client.*

4. Shall not give or receive any commission or other form of remuneration for the referral of any client from the person or entity to whom the client is referred.

Sec. 48. 1. A counselor or certified intern shall:

(a) 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 counselor or certified 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 counselor or certified intern.

(b) Inform and obtain the authorization of a client if:

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

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

3. 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. 49. If a counselor or certified intern becomes aware that a client is receiving treatment for the abuse of alcohol or other drugs from another person or organization, or is

receiving treatment for any other condition that could affect the treatment that the counselor or certified intern is or would provide to the client, the counselor or certified intern shall not provide that treatment to the client without the coordination of care with the other person or organization providing care to the client.

Sec. 50. *1. Before engaging in research involving persons, a counselor or certified intern must obtain the voluntary and informed consent of the persons who will be participating in the research without any implied deprivation or penalty to the person if the person chooses not to participate in the research.*

2. A counselor or certified intern who is engaging in research involving persons shall protect persons participating in the research from unwarranted physical and mental discomfort, distress, harm, danger or deprivation.

3. A counselor or certified intern shall treat information obtained from or about persons participating in his research as confidential information.

4. A counselor or certified intern shall only take credit for work which he actually does in connection with his research and shall give credit for contributions to his research which are made by other persons or entities.

Sec. 51. *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 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 or a related field revokes or suspends the license, certificate, registration or other credential, or takes any other disciplinary action taken 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. 52. 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 includes, without limitation, malpractice and gross negligence.*

2. As used in this section:

(a) “Gross negligence” means conduct in the practice of counseling alcohol and drug abusers 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 which falls below the standard of care required from a counselor or certified intern under the circumstances.

Sec. 53. The provisions of this chapter relating to the acquisition, maintenance and disclosure of information relating to a client apply to:

- 1. Information that is not subject to 42 C.F.R. Part 2; and*
- 2. If the information is subject to 42 C.F.R. Part 2, only to the extent that the provisions of this chapter relating to the acquisition, maintenance and disclosure of the information do not conflict with 42 C.F.R. Part 2.*

Sec. 54. Parties to proceedings before the board must be styled the “applicant,” “complainant,” “petitioner,” “protestant” or “respondent,” according to the nature of the proceedings and the relationship of the parties. In any proceeding initiated by the board, the board will be styled the “staff.”

Sec. 55. Any member of the staff may appear at any proceeding before the board and may participate as a party to a proceeding.

Sec. 56. A party shall enter his appearance in a proceeding before the board at the beginning of the hearing or at any other time designated by the presiding officer of the board. A party shall enter his appearance by entering his name and address and stating his position or interest on the matter to the presiding officer of the board.

Sec. 57. 1. A person may appear in person before the board or may be represented by an attorney.

2. An attorney who appears as counsel on behalf of a party in a proceeding before the board must be an attorney at law who is admitted to practice law and is in good standing before the supreme court of Nevada. An attorney who is not admitted to practice law before the supreme court of Nevada may appear as counsel if he is associated with an attorney who is admitted and entitled to practice law before the supreme court of Nevada.

Sec. 58. After the entry of an appearance by an attorney for a party in a proceeding before the board, all notices, pleadings and orders to be served thereafter on the party represented by the attorney must be served upon the attorney, and such service is, for all purposes, valid service on the party which the attorney represents.

Sec. 59. An attorney of record who wishes to withdraw from a proceeding before the board must, in writing, immediately notify the board or its presiding officer, the party whom the attorney represents and all other parties to the proceeding.

Sec. 60. A pleading before the board must be styled as an “application,” “petition,” “complaint” or “answer” according to the nature of the pleading.

Sec. 61. A pleading, other than a petition, must be signed by the person who is submitting the pleading.

Sec. 62. The board will construe all pleadings so as to administer justice between the parties, and the board will, and its presiding officer shall, at every stage of any proceeding, disregard errors or defects in the pleadings or proceeding which do not affect the substantive rights of the parties involved in the proceeding.

Sec. 63. A pleading which requests a license or certificate or approval from the board must be styled as an “application.” Such a pleading must set forth the full name and address of the applicant and must contain such facts and exhibits as may be required by this chapter and chapter 641C of NRS.

Sec. 64. 1. A pleading in which a party prays for affirmative relief, excluding an application, complaint or answer but including a request for a declaratory order, an advisory opinion or the adoption, amendment or repeal of any regulation of the board, must be styled a “petition.”

2. A petition must contain the full name and address of the petitioner and be signed by the petitioner.

Sec. 65. 1. A person may file a complaint with the board concerning the acts or services provided by a counselor or certified intern. A complaint filed with the board must be on a form provided by the board. A complainant shall include in his 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 a 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 receiving a complaint against a counselor or certified intern, the staff shall send a copy of the complaint to the counselor or certified intern by certified mail. The transmission of a complaint will be deemed to be a notice of intended action pursuant to subsection 3 of NRS 233B.127. Upon the receipt of a copy of a complaint that has been filed against him, a counselor or certified intern shall submit to the board a written response to the complaint within 10 days after the date on which he received the complaint. A response to a complaint must respond to the allegations made in the complaint and be accompanied with all documentation that would be useful to the staff and legal counsel in its review of the allegations made in the complaint and the responses made by the counselor or certified intern to those allegations.

3. The staff and legal counsel shall review a complaint and the responses made thereto. In their review of a 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 in the conduct of the investigation; and

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

4. If the staff and the legal counsel determine that the preliminary information from its investigation of a 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 bureau of alcohol and drug abuse in the department of human resources in the investigation of the alleged violations; and

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

5. During an investigation of a 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 will 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.

6. If the staff, legal counsel or investigator, if any, determine 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.

7. When an investigation of a 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 complaint. If the staff, legal counsel and investigator determined that no allegation of a violation of a statute or regulation set forth in the 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 complaint can be sustained, the legal counsel shall prepare a notice of hearing and accusation.

8. A notice of hearing and accusation 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 practice of counseling alcohol and drug abusers;

(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 accusation 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.

9. The staff shall send a notice of hearing and accusation prepared pursuant to subsection 8 to the respondent named in the notice by certified mail.

10. A respondent who receives a notice of hearing and accusation must file his answer to the notice not later than 15 days after the date on which he received the notice. An answer to a notice of hearing and accusation filed by a respondent must include a response to each allegation and statement made in the notice by either admitting to or denying the allegation or statement. The board may consider the failure of a respondent to file an answer in a timely

manner to be an admission of each allegation and statement contained in the notice of hearing and accusation.

11. The board may join two or more complaints into one formal complaint if:

(a) The causes of action of each 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 complaints will serve the best interest of the board, complainants and respondent.

Sec. 66. 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, 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; 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

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(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. 67. *1. A motion concerning any matter before the board must be made in writing, unless the motion is made during the hearing on that matter. The board may deny a motion made during a hearing if the motion could have reasonably been made before the hearing.*

2. A written motion must set forth the nature of the relief sought by and the grounds for the motion.

3. A party may oppose a written motion by filing and serving a written response to the motion with the board and all the parties to the proceeding to which the motion relates.

4. If a written response to a motion is filed pursuant to subsection 3, the party who made the motion may file and serve a written reply to the response.

5. The presiding officer of the board shall rule on all written motions on a matter at or before the hearing scheduled on the matter. The presiding officer may rule on a motion without oral argument or may allow oral arguments to be made before ruling on the motion. If the presiding officer allows oral arguments on a written motion to be made, the presiding officer shall set a time and date for hearing the oral arguments.

Sec. 68. *An original and two legible copies of each pleading, motion or other paper related to any proceeding or hearing before the board must be filed with the board. The board may direct a party who is filing a pleading, motion or other paper to make a copy of the*

pleading, motion or paper available to any other person whom the board determines may be affected by the proceeding or hearing and who wishes to have a copy.

Sec. 69. The board will serve a notice, advisory opinion, declaratory order or other document by mail or in person. If the board serves a notice, advisory opinion, declaratory order or other document by mail, the board will consider service 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 in the records of the person to be served.

Sec. 70. Each document filed with the board in a matter before the board must include an acknowledgement or proof of service to all other parties involved in the matter.

Sec. 71. 1. Not less than 20 days before a matter is scheduled for a disciplinary hearing before the board, a party to the matter may serve upon any other party to the matter a written demand for:

(a) Copies of all documents that are reasonably available to the other party which the other party reasonably anticipates will be used in support of his position.

(b) A written list of the names of the persons whom the other party reasonably anticipates will testify at the disciplinary hearing in support of his position. The list must include the name and address of each such person and a general description of the anticipated subject matter of his testimony.

2. A party who receives a written demand for documents or information pursuant to subsection 1 shall:

(a) Respond to the written demand within 5 days after receiving the written demand; and

(b) If, after responding to or updating a written demand, the party reasonably anticipates that other documents or witnesses will be used in support of his position, or if any of the

documents or information previously provided changes, promptly supplement and update his response to the written demand.

3. If a party fails to provide any documentation or information in response to a written demand in violation of the provisions of this section, the presiding officer of the board may exclude the undisclosed document or the testimony of the witness at the hearing.

4. Except as otherwise required by law, discovery may only be done in accordance with the provisions of this section.

Sec. 72. 1. The board will serve a notice of a hearing at least 10 days before the date set for the hearing. A hearing which has previously been continued may be reset for hearing on advance notice of at least 3 days.

2. If a notice of hearing and accusation and a complaint are served at the same time, they may be considered together for the purposes of chapter 233B of NRS.

Sec. 73. 1. If a party in a matter before the board fails to appear at a hearing scheduled for the matter and no continuance for the hearing has been granted, the board may hold the hearing without the absent party, hear the testimony of the witnesses who have appeared, and consider and dispose of the matter based on evidence presented.

2. If the board has disposed of a matter pursuant to subsection 1 and the absence of the party was because of an accident, sickness or other reasonable and unforeseeable cause, the party may, not later than 10 days after the date on which the hearing was scheduled, apply to the board to reopen the proceedings and rehear the matter. Upon finding sufficient and reasonable cause, the board will set a new time and place for a rehearing on the matter and give the parties notice of the rehearing. A witness who testified at the previous hearing is not required to appear at the rehearing unless he is directed to do so by the board.

Sec. 74. The presiding officer of the board in a hearing shall call the hearing to order, take the appearances of witnesses and act upon any pending motions or petitions. Upon the completion of this action by the presiding officer of the board, each party may make an opening statement.

Sec. 75. At a hearing or any other proceeding before the board, the parties, their counsels, if any, the witnesses and any spectators shall conduct themselves in a respectful manner.

Sec. 76. The presiding officer of the board may consolidate two or more matters into one hearing if it appears that the issues involved in each of the individual matters are the same and the interests of the parties will not be prejudiced by such a consolidation.

Sec. 77. With the approval of the presiding officer of the board, parties to a matter before the board may stipulate to any fact at issue by a written stipulation introduced into evidence as an exhibit or by an oral statement shown upon the record. Except as otherwise provided in this section, upon the approval of a stipulation by the board, the stipulation becomes binding on all the parties who agreed to the stipulation, and the stipulation may be treated as evidence at the hearing. The presiding officer of the board may, at any time during a hearing, require evidential proof of any facts to which the parties have stipulated.

Sec. 78. 1. After the board has publicly deliberated and voted upon a matter before the board, the presiding officer of the board may direct a party to the matter to draft the findings of fact, conclusions of law and any orders made by the board on the matter, consistent with the oral deliberation and vote of the board.

2. Upon a determination that a draft of the findings of fact, conclusions of law and any orders made pursuant to subsection 1 accurately reflects the matter as it was heard and

decided upon by the board, the presiding officer of the board shall approve and execute the findings of fact, conclusions of law and any orders made. The staff shall mail a copy of the approved and executed findings of fact, conclusions of law and any orders of the board to:

- (a) Its legal counsel by regular mail; and*
- (b) Each party involved in the matter by certified mail.*

Sec. 79. *In addition to the materials set forth in subsection 5 of NRS 233B.123, the board may take official notice of regulations, official reports, decisions, orders, standards, records or files of the board, of any state agency in this state and of any court of record.*

Sec. 80. 1. *Not later than 10 days after the date on which the board decides or issues an order on a matter before the board, a party who is aggrieved by the decision or order may apply for a rehearing by filing with the board a written petition that sets forth sufficient information that:*

(a) A material mistake or fraud occurred which affected the decision or order of the board;
or

(b) Previously unavailable material evidence has been discovered.

FLUSH *The board will not consider any other grounds or information in determining whether to grant a petition for a rehearing.*

2. The board will act on a petition for a rehearing not later than 30 days after the date on which the petition for a rehearing was filed with the board. If the board does not act on a petition for a rehearing within the 30-day period, the board will consider the petition for a rehearing to be denied.

3. The filing of a petition for a rehearing on a matter with the board does not excuse the parties to the matter from complying with any decision or order made by the board concerning

that matter, or suspend the effectiveness of such a decision or order, unless the board, by order, excuses the parties from compliance with, or declares the suspension of, the decision or order.

Sec. 81. *The board will consider petitions for declaratory orders or advisory opinions regarding the applicability of any statutory provision or any regulation or order of the board.*

Sec. 82. 1. *Upon receiving a petition for a declaratory order or an advisory opinion, the board will place the matter on the agenda for discussion at the next regularly scheduled meeting of the board. If a petition for a declaratory order or an advisory opinion is filed with the board within the 10 days immediately preceding the date of the next regularly scheduled meeting of the board, the petition will be placed on the agenda for discussion at the following regularly scheduled meeting of the board.*

2. After discussing and considering a petition for a declaratory order or an advisory opinion at its meeting, the board will grant or deny the petition. If the board denies a petition for a declaratory order or an advisory opinion, the board will take no further action on the matter.

3. If the board grants a petition for a declaratory order or an advisory opinion, the board will issue a declaratory order or an advisory opinion on the matters raised in the petition for a declaratory order or an advisory opinion not later than 90 days after the date on which the board grants the petition, except that the board may extend the period by which it will issue the declaratory order or advisory opinion to not more than 120 days if good cause exists for such an extension. The board may schedule a hearing on any issue raised in a petition for a declaratory order or an advisory opinion before the board issues its declaratory order or

advisory opinion. The board will consider such a hearing as being sufficient good cause to warrant an extension for issuing its declaratory order or advisory opinion.

Sec. 83. 1. *If the board determines that it should address any issue set forth in a petition for a declaratory order or an advisory opinion, the presiding officer of the board shall assign one member of the board to write a declaratory order or an advisory opinion on the issue.*

2. Within 60 days immediately following the date on which a member of the board is assigned to write a declaratory order or an advisory opinion on an issue, the member of the board shall:

(a) Review the comments of all members of the board on the issue;

(b) Research the issue and, if necessary, seek the assistance of the attorney general; and

(c) Submit a draft of his declaratory order or advisory opinion to the board for its approval.

3. Upon the issuance of a declaratory order or an advisory opinion by the board, the staff shall give notice of that order or opinion to the petitioner who filed the petition for the declaratory order or advisory opinion.

Sec. 84. *Any act by a counselor or certified intern in contradiction to or violation of a finding of fact, conclusion of law or order made by the board, or of a declaratory order or advisory opinion issued by board constitutes unprofessional conduct.*

Sec. 85. 1. *A petition for the adoption, amendment or repeal of a regulation of the board must be in writing, prepared in a form approved by the board and filed with the board.*

2. Except as otherwise provided in this section, if the board receives a petition for the adoption, amendment or repeal of a regulation of the board:

(a) More than 30 days before the next regularly scheduled meeting of the board, the board will place the petition on the agenda of the next regularly scheduled meeting of the board; or

(b) Within the 30 days immediately preceding the next regularly scheduled meeting of the board, the board will place the petition on the agenda for the following regularly scheduled meeting of the board,

FLUSH *for discussion to determine whether the petition should be denied or procedures for the adoption, amendment or repeal of a regulation should be commenced.*

3. The board may call a special meeting to consider a petition for the adoption, amendment or repeal of a regulation if the board determines that such a special meeting is necessary.