

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

LCB File No. R126-01

October 23, 2001

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

AUTHORITY: §§1, 2 and 5-11, NRS 641C.200; §3, NRS 641C.200 and 641C.290; §4, NRS 641C.200 and 641C.470.

Section 1. NAC 641C.205 is hereby amended to read as follows:

641C.205 For the purposes of this chapter, paragraph (d) of subsection 1 of NRS 641C.350 and paragraph (d) of subsection 1 of NRS 641C.390, the board will consider an applicant for a license or certificate as an alcohol and drug abuse counselor to have successfully completed 2,500 hours of supervised counseling of drug and alcohol abusers if the applicant has successfully completed:

1. ~~[At least 12]~~ *A bachelor's degree in a field of social science approved by the board that included 18* semester hours, or ~~[18]~~ *27* quarter hours, of study specifically related to the counseling of alcohol and drug abusers ~~[if the applicant has received a master's or doctoral degree]~~ from an accredited college or university ~~[in a field of social science approved by the board;]~~ *or has accrued the required 18 semester or 27 quarter hours in postgraduate education;* or
2. ~~[At least 18]~~ *A master's degree in a field of social science approved by the board that included 12* semester hours, or ~~[27]~~ *18* quarter hours, of study specifically related to the counseling of alcohol and drug abusers ~~[if the applicant has received a bachelor's degree]~~ from

an accredited college or university ~~[in a field of social science approved by the board.]~~ *or has accrued the required 12 semester or 18 quarter hours in postgraduate education.*

Sec. 2. NAC 641C.215 is hereby amended to read as follows:

641C.215 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]~~ 90 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. 3. NAC 641C.220 is hereby amended to read as follows:

641C.220 1. An applicant for licensure or certification as a counselor must pass ~~each~~ ~~section of an~~ *the* examination required by the board with ~~a~~ *an average* 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. 4. NAC 641C.240 is hereby amended to read as follows:

641C.240 The board will charge and collect the following fees:

1. For the initial application for a license or certificate~~[\$50]~~ **\$60**
2. *For the application for a certificate as a supervisor of a certified intern***\$20**
3. For the issuance of a provisional license or certificate~~[\$45]~~ **\$50**
- ~~[3.]~~ 4. For the issuance of an initial license or certificate~~[\$50]~~ **\$60**
- ~~[4.]~~ 5. *For the issuance of a certificate as a supervisor of a certified intern***\$20**
6. For the renewal of a license or certificate as an alcohol and drug abuse counselor~~[\$125]~~ **\$150**
- ~~[5.]~~ 7. For the renewal of a certificate as an alcohol and drug abuse counselor intern~~[\$60]~~ **\$70**
- ~~[6.]~~ 8. For the renewal of a delinquent license or certificate.....**\$75**
- ~~[7.]~~ 9. For the restoration of an expired license or certificate**\$150**
- ~~[8.]~~ 10. *For the deactivation of a license or certificate***\$20**
11. *For the reactivation of a license or certificate***\$20**
12. *For the replacement of a license or certificate*.....**\$20**
13. For the restoration or reinstatement of a suspended or revoked license or certificate.....**\$300**

~~9.~~ 14. For the issuance of a license or certificate without examination.....~~[\$100]~~ \$125

~~10.~~ 15. For an examination.....~~[\$50]~~ \$60,

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

Sec. 5. NAC 641C.275 is hereby amended to read as follows:

641C.275 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. 6. NAC 641C.280 is hereby amended to read as follows:

641C.280 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 *for a certificate as a supervisor of a certified intern* to the board on a form provided by the board; and

(b) Received notification from the board that it has approved his application *and has been issued a certificate as a supervisor of a certified intern.*

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. 7. NAC 641C.290 is hereby amended to read as follows:

641C.290 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

(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,

FLUSH 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. *Except as otherwise provided in this subsection, a certified intern may not accumulate*

any hours necessary to become a licensed or certified counselor during the remainder of any semester from which he has withdrawn from his courses such that he is no longer enrolled in at least 3 credit hours for a given semester. Upon request of a certified intern, the board may waive the provisions of this subsection if the board determines the existence of good cause, including, without limitation, extreme illness of the certified intern or the cancellation of classes by a college or university To obtain a waiver, the certified intern:

(a) Must provide the board with documentation of any requested waiver; and

(b) May be requested to appear before the board to determine if a waiver should be granted.

4. 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. 8. NAC 641C.300 is hereby amended to read as follows:

641C.300 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) A 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 for taking the subsequent program of continuing education.

4. *To maintain his certificate as a supervisor of a certified intern, a licensed counselor must attend at least 10 hours of continuing education that pertain to supervision, ethics or Nevada law during the 2-year period of certification. These hours are in addition to the hours required for maintaining his license as a counselor pursuant to subsection 1.*

5. 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 ~~or~~; *or*

(c) Fails to cooperate with an investigation by the board of a complaint, including, without limitation, failing to timely respond to the board regarding a copy of the complaint sent to the counselor by the staff pursuant to subsection 2 of NAC 641C.555.

Sec. 9. NAC 641C.440 is hereby amended to read as follows:

641C.440 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 *this state or 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 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. 10. NAC 641C.555 is hereby amended to read as follows:

641C.555 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]~~ 15 days after the date on which ~~[he received]~~ the complaint ~~[.]~~ was served. 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]~~ their review of the allegations made in the complaint and the responses made by the counselor or certified intern to those allegations.

3. ~~[The]~~ *If a counselor or certified intern fails to respond as required pursuant to subsection 2, he shall be deemed to have admitted the allegations of the complaint. Based on these admissions, the board may impose appropriate discipline on the counselor or certified intern in the same manner as if the allegations had been proven by substantial evidence at a board hearing held on the formal accusation.*

4. *In cases where a response is filed as required pursuant to subsection 2, the staff and legal counsel shall review ~~[a]~~ the complaint and the responses made thereto~~[. In]~~, may enlist the aid of a member of the board or other qualified persons in such review and may take any other reasonable action necessary to further the review. After their review of ~~[a]~~ the 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 *or other qualified person* in the conduct of the investigation; and

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

~~[4.]~~ 5. 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]~~ *health division* of the department of human resources in the investigation of the alleged violations; and

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

~~[5.]~~ 6. 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]~~ *may* 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.]~~ 7. If the staff, legal counsel or investigator, if any, ~~[determine]~~ *determines* 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.]~~ 8. 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]~~ *determine* 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~~ *proceed with final resolution of the case, including, without limitation, mediation, settlement agreements, stipulations of facts and liability, informal hearings or preparation of* a notice of hearing and accusation ~~[-~~
~~—8.]~~ *for presentation to the board at a formal hearing.*

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

~~10.]~~ 11. A respondent who receives a notice of hearing and accusation must file his answer to the notice *of hearing and accusation* not later than 15 days after the date on which ~~he received~~ the notice ~~[-]~~ *of hearing and accusation was served*. 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 *of hearing and accusation* 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.]~~ *If the counselor or certified intern fails to file an answer as required pursuant to this subsection, he shall be deemed to have admitted each allegation and statement contained in the notice of hearing and accusation. Based on these admissions, the board may enter a finding and impose appropriate discipline on the counselor or certified intern in the same manner as if the allegations had been proven by substantial evidence at a board hearing held on the accusation.*

12. Not later than 10 days after the filing of the answer by the respondent, the legal counsel and the respondent shall exchange a list of the evidence and witnesses that will be used at the hearing. Either party may present evidence it obtains after the date the exchange was required pursuant to this subsection only if it shows that the evidence or witness was not available upon diligent investigation before the date the exchange was required and that the evidence or witness was given or communicated to the other party immediately after it was obtained.

13. 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. 11. The amendatory provisions of sections 1 and 3 of this regulation apply retroactively to October 1, 1999.