

LCB File No. R077-02

**PROPOSED REGULATION OF THE
BOARD OF PSYCHOLOGICAL EXAMINERS**

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption, Amendment and Repeal of Regulations of the
Nevada State Board of Psychological Examiners

The Nevada State Board of Psychological Examiners will hold a public hearing at 10:00 a.m. on Saturday, June 8, 2002, at 4600 Kietzke Lane, Suite B111, Reno, Nevada.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to chapter 641 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

The proposed adoption of Section 1 is necessary to establish a method to resolve controversies which do not justify a disciplinary hearing.

The proposed adoption of Sections 2-7 is necessary to establish standards of practice before the Board for disciplinary hearings.

The proposed adoption of Section 8 is necessary to revise the provisions regarding supervision of postdoctoral hours for applicants. (Amendment to NAC 641.080)

The proposed adoption of Section 9 is necessary to eliminate the biennial renewal of a registration of a firm, partnership, or corporation. (Amendment to NAC 641.135)

The proposed adoption of Section 10 is necessary to eliminate the biennial renewal of a registration of a firm, partnership, or corporation. (Amendment to NAC 641.136)

The proposed adoption of Section 11 is necessary to amend certain provisions of the child custody regulation to clarify provisions regarding disclosure of communications, written consent, and opinions regarding persons not evaluated by the psychologist.

The text of the proposed regulation is attached to this notice.

The adoption or amendment of these regulations will not create an adverse or a beneficial economic effect on the public or upon licensees except that licensees will only have to pay a one-time registration fee for the firms, partnerships, or corporations, and will only have to

reregister if there is a change in ownership of or the psychologists practicing in the firm, partnership, or corporation rather than biennial renewal and applicants for licensure will have to pay a higher fee to take the written examination but this fee will only cover the Board's costs.

There are no immediate or long-term economic effects of the adoption or amendment of these regulations anticipated with respect to the public or upon licensees except as noted above.

The Nevada State Board of Psychological Examiners will have no additional costs incurred to administer the regulations adopted. Enforcement of the regulations can be accomplished through present resources at no additional cost to the Board. In the event any unknown or unanticipated cost does occur, the cost would be assumed by the Board from its fees charged to licensees, as the Board receives no appropriated funds from the state of Nevada.

The proposed adoption or amendment of these regulations do not overlap or duplicate any regulations of other state or local agencies, nor do they overlap or duplicate a federal regulation, nor are they required pursuant to federal law.

Persons wishing to comment upon the proposed action of the Nevada State Board of Psychological Examiners may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada State Board of Psychological Examiners, P.O. Box 2286, Reno, Nevada, 89505-2286. Written submissions must be received by the Nevada State Board of Psychological Examiners on or before June 5, 2002. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Psychological Examiners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted and amended will be available at the office of the Nevada State Board of Psychological Examiners, 275 Hill Street, Ste. 246, Reno, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within thirty (30) days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Board of Psychological Examiners, 275 Hill Street, Suite 246, Reno
Grant Sawyer Building, 555 East Washington Avenue, Las Vegas
Office of the Attorney General, 100 No. Carson Street, Carson City
The following Libraries:

CARSON CITY LIBRARY
900 NORTH ROOP ST
CARSON CITY NV 89701

CHURCHILL COUNTY LIBRARY
553 SOUTH MAINE ST
FALLON NV 89406

LAS VEGAS-CLARK COUNTY LIBRARY
833 LAS VEGAS BLVD NORTH
LAS VEGAS NV 89101

DOUGLAS COUNTY LIBRARY
P O BOX 337
MINDEN NV 89423

ELKO COUNTY LIBRARY
720 COURT ST
ELKO NV 89801

GOLDFIELD PUBLIC LIBRARY
P O BOX 430
GOLDFIELD NV 89013

EUREKA BRANCH LIBRARY
P O BOX 293
EUREKA NV 89316

HUMBOLDT COUNTY LIBRARY
85 E 5TH ST
WINNEMUCCA NV 89445

LANDER COUNTY
BATTLE MOUNTAIN BRANCH LIBRARY
P O BOX 141
BATTLE MOUNTAIN NV 89820

LINCOLN COUNTY LIBRARY
BOX 330
PIOCHE NV 89043

LYON COUNTY LIBRARY
20 NEVIN WAY
YERINGTON NV 89447

MINERAL COUNTY LIBRARY
P O BOX 1390

HAWTHORNE NV 89415

NYE COUNTY
TONOPAH PUBLIC LIBRARY
P O BOX 449
TONOPAH NV 89049

PERSHING COUNTY LIBRARY
P O BOX 781
LOVELOCK NV 89419

STOREY COUNTY LIBRARY
P O BOX 14
VIRGINIA CITY NV 89440

WASHOE COUNTY LIBRARY
P O BOX 2151
RENO NV 89505

WHITE PINE COUNTY LIBRARY
950 CAMPTON
ELY NV 89301

STATE LIBRARY AND ARCHIVES
100 N STEWART STREET
CARSON CITY NV 89701-4285

PROPOSED REGULATION OF THE BOARD OF PSYCHOLOGICAL EXAMINERS

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

AUTHORITY: NRS 641.100; NRS 641.170(1)(e); NRS 641.370

Section 1. Chapter 641 of NAC is hereby amended by adding thereto the provisions set forth in sections 2-7 of this regulation.

Section 2.

Complaints or controversies that do not justify or require formal disciplinary proceedings as set forth in NRS 641.270 or NRS 641.271 may be considered and resolved by the board president, or a person designated by him, through informal conferences, meetings, agreements, stipulations or other informal action as may be appropriate under the circumstances. Such informal action is held without prejudice to the board, and formal proceedings may be instituted subsequently by the board or the executive director or a person designated by him for the same or related matters. If new evidence is discovered, the matter may at any time be opened again and investigated further if the circumstances so warrant.

Section 3.

1. Each pleading or paper filed with the Board in connection with a proceeding for a disciplinary action must be designated as an application, petition, complaint, answer or motion.

2. All pleadings, except motions and complaints brought by the board on its own motion, must be verified.

3. The board may allow any pleading to be amended or corrected or any omission therein to be supplied.

4. Pleadings will be liberally construed and defects which do not affect substantial rights of the parties will be disregarded.

Section 4.

1. An answer to a formal complaint as described in NRS 641.276(2) must be filed with the board and service thereof made on parties of record within 15 days after service of the complaint, unless the board for good cause shown, extends the time. Any matter which is alleged as an affirmative defense must be separately stated and numbered.

2. A respondent who fails to answer the complaint within 15 days shall be deemed to have denied the allegations set forth in the complaint generally and is precluded, except with the consent of the board, from establishing any affirmative defense at the hearing. The board will proceed with the matter based solely upon the issues set forth in the complaint unless the matter is continued by the board.

3. Any motion upon the complaint must be filed before the answer is due. If it is not so filed, the objection must be raised in the answer.

4. If a motion is directed toward an answer, it must be filed within 5 days of service after the answer.

5. All other motions must be timely filed.

Section 5.

1. A respondent may be represented by an attorney licensed to practice law in this state. If the attorney is not licensed to practice law in this state, he must be associated with an attorney who is so licensed. The respondent may appear on his own behalf.

2. An attorney appearing in a hearing before the board shall ensure that his conduct complies with the Nevada Rules of Professional Conduct.

3. All persons appearing in a hearing before the board shall conform to the standards of ethical and courteous conduct required in the courts of this state.

4. If a person fails to conform his conduct to the standards required by this section, the board may:

(a) Limit the evidence presented by that person; or

(b) Exclude the person or his representative from the hearing.

5. Any action taken by the board pursuant to this section and the specific reasons for that action will be stated on the record.

6. The respondent shall pay the cost for representation by his attorney at a hearing before the board.

Section 6.

An attorney may withdraw from his representation of a respondent upon notice to the respondent and the board. The notice must include the reason for the requested withdrawal. The board may deny permission to withdraw if the withdrawal would unreasonably delay the hearing.

Section 7.

1. The board will convene a disciplinary hearing at the time and place specified in the complaint and notice of hearing. The person presiding at the hearing may grant a continuance only upon:

(a) A joint stipulation of the parties;

(b) The existence of an emergency condition; or

(c) A written request by a party filed at least 5 days before the date of the hearing.

A continuance based on a written request pursuant to paragraph (c) may be granted only upon a showing of good cause which term must be narrowly construed. A party requesting a continuance must appear on the date of the hearing and be prepared to proceed unless the request has been made pursuant to a joint stipulation.

2. The hearing must then proceed in the following manner unless the board for good cause or to prevent manifest injustice orders otherwise:

(a) An opening statement may be made on behalf of the board or waived.

(b) An opening statement on behalf of respondent may be made, reserved until the close of the board's case, or waived.

(c) The presentation of the board's case is followed by cross-examination.

(d) The presentation of the respondent's case is followed by cross-examination.

(e) Any rebuttal is limited to issues previously raised. No new matter may be presented upon rebuttal unless the board for good cause so permits.

(f) Argument on behalf of the board is presented unless waived.

(g) Argument on behalf of the respondent is presented unless waived.

(h) The matter is submitted to the board for decision.

3. After the matter is submitted, the board will render a decision and its order.

Section 8. NAC 641.080 is hereby amended to read as follows:

NAC 641.080 Experience prerequisite for examination for full licensure.

1. Before an applicant is eligible for examination for full licensure, he must complete 2 years of supervised and documented experience which is the equivalent of full-time experience.

2. Except as otherwise provided in subsection 3, the 2 years of experience required pursuant to paragraph (e) of subsection 1 of NRS 641.170 must be supervised experience and comply with the following requirements:

- (a) Each year must consist of not less than 1,750 hours;
- (b) The first year must satisfy the requirements of subsection 4; and
- (c) The second year must be postdoctoral and satisfy the requirements of subsection 5.

3. If an applicant has been licensed for at least 5 years in another state and has had no disciplinary action or other adverse action taken against him by the regulatory body, the 2 years of experience required pursuant to paragraph (e) of subsection 1 of NRS 641.170 must be supervised experience and comply with the following requirements:

- (a) Each year must consist of not less than 1,500 hours;
- (b) Each year must satisfy the requirements of subsection 5; and
- (c) One year must be postdoctoral.

4. One year of supervised experience must be satisfactorily completed in an internship program approved by the American Psychological Association, or the supervised experience must:

- (a) Be completed in an institutional setting which is appropriate for the training of a professional psychologist;
- (b) Serve a group of persons which is sufficient in number and variability to provide a broad range of training experiences;
- (c) Be completed in not less than 10 months but not more than 24 months;
- (d) Have formal written policies and procedures;
- (e) Have nondiscriminatory policies and operate under nondiscriminatory conditions;

(f) Have training objectives which are based on:

(1) The science and practice of psychology; and

(2) A model that is sequential, cumulative and graded in complexity;

(3) Offer an organized internship program which includes:

(1) Experiential training with regularly scheduled supervision by a psychologist

licensed in the jurisdiction in which the program is located who has an integral role in the institution and whose primary responsibility is the provision of services; and

(2) A minimum of 10 percent of the internship hours per week spent under supervision, including 1 hour or 5 percent of the internship hours per week, whichever is less, spent under direct individual supervision;

(g) Have a training program which includes:

(1) Theories and methods of assessments and diagnosis;

(i) Be provided in a setting in which training takes precedence over providing services or raising revenue;

(j) Include exposure to a sufficient number of professionals to ensure meaningful peer interactions, support and socialization;

(k) Provide each intern, at least semiannually, with a written performance evaluation of his:

(1) Professional conduct;

(2) Psychological knowledge and skills; and

(3) Competence in psychological assessment, intervention and consultation; and

(4) Provide for written documentation of completion of the program.

5. One year of supervised experience must meet the guidelines established by the Association of State and Provincial Psychology Boards. Supervised experience is credited only for:

(a) Work experience other than experience which is acquired in connection with a practicum for which graduate credits are granted:

(b) Professional work in an organized public or private agency, institution or organization which provides an opportunity for contact with other disciplines and an opportunity for work with a broad range of clients, or other settings if the applicant has made prior arrangement with and obtained the approval of the board:

(c) The equivalent of 1 full year's experience on an assignment to ensure a comprehensive, supervised work experience;

(d) Work which is conducted under the supervision of a licensed psychologist or a professional who is licensed in his area of specialty, including, but not limited to, a psychiatrist, social worker, or marriage and family therapist who:

(1) Possesses legal, administrative and professional responsibility for the work of the applicant he supervises; and

(2) Whose relationship with the applicant is clearly differentiated from that of consultant; and

(e) Work experience in which:

(1) Not more than one-quarter of the number of supervised hours are accrued under the direction of a specialist; and

(2) A minimum of 1 hour per week is spent under direct individual supervision with additional supervisory contact for specific case discussion and skill training.

(f) The board may waive the requirements of subsection (e) herein upon the request of an applicant if the board determines that the nature of the work experience of the applicant precludes regular or frequent direct individual supervision and the applicant has available an alternative schedule of supervision satisfactory to the board.

Section 9. NAC 641.135 is hereby amended to read as follows:

641.135 Fees. (NRS 641.370) The board will charge and collect the following fees:

For an application for licensure.....	\$100
For the written examination for licensure.....	[350] 500
For the oral examination for licensure.....	240
For the issuance of an initial license.....	25
For the biennial renewal of a license.....	500
For the biennial registration of a firm, partnership or corporation.....	300
For the placement of a license on inactive status.....	100
For the [biennial] renewal of a license on inactive status.....	100
For the restoration to active status of a license on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed.....	400
For the restoration to active status of a license on inactive status if the restoration occurs during the second year of the biennium in which the	

license was issued or renewed	150
For the registration of a nonresident consultant	100
For reproduction and mailing of material for an application.....	25
For a set of mailing labels.....	15
For a dishonored check	15
For the review of a failed examination	175
For a change of name on a license	25
For a duplicate license	25
For a list of practicing psychologists	10
For a list of persons granted a license in any year	10
For copies of the provisions of NRS relating to the practice of psychology and the rules and regulations adopted by the board.....	25
For a letter of good standing	15
For the review and approval of a course or program of continuing education.....	25

Section 10. NAC 641.1505 is hereby amended to read as follows:

NAC 641.1505 Requirement for firm, partnership or corporation to register; expiration of registration; registration; exemption from registration. (NRS 641.113)

1. Except as otherwise provided in subsection 3, a firm, partnership or corporation that engages in or offers to engage in the practice of psychology must register with the board and pay the fee for registration before it commences to engage in or offer to engage in the practice of psychology.

2. ~~[The registration of such a firm, partnership or corporation expires on December 31 of each odd-numbered year. To continue to engage in or offer to engage in the practice of~~

~~psychology, a firm, partnership or corporation must register with the board and pay the fee for registration on or before December 31 of each odd-numbered year.]~~ *The firm, partnership or corporation must notify the board of any change in ownership or of the addition or departure of any psychologist associated with the firm, partnership or corporation within 30 days of such change. The firm, partnership or corporation must complete a new registration for any change of ownership.*

3. The following entities are exempt from the requirements of this section:

(a) A federal, state or local governmental agency or institution.

(b) A firm or corporation that bears the name of a psychologist licensed by the board who is the only person practicing under the name of the firm or corporation.

(c) A firm, partnership or corporation that is formed for the sole purpose of sharing administrative expenses, including, without limitation, rent, services for billing patients and clerical support, if:

(1) The place of business of the firm, partnership or corporation is not identified by the name of the firm, partnership or corporation;

(2) Records of patients, correspondence concerning patients and materials for billing patients do not display the name of the firm, partnership or corporation;

(3) The name of the firm, partnership or corporation is not used in any advertising by the firm, partnership or corporation;

(4) The firm, partnership or corporation does not hold a business license issued by a county, city or town to engage in the practice of psychology; and

(5) Professional liability insurance is not held in the name of the firm, partnership or corporation.

Section 11. Section 1 of LCB File No. RO90-01 is hereby amended to read as follows:

1. A psychologist who performs a child custody evaluation shall:

- (a) Ensure that his primary concerns in completing the child custody evaluation are the psychological interests and well-being of the child;
- (b) Remain impartial and objective throughout the child custody evaluation;
- (c) Not have or have had a relationship with the child, surrogate, parent or other legal guardian of the child other than as a psychologist performing the child custody evaluation unless ordered to perform such an evaluation by a court of competent jurisdiction that has knowledge that such a relationship exists or existed;
- (d) Provide a child custody evaluation that is fair and unbiased;
- (e) Gather and maintain the information necessary to complete the child custody evaluation, including, without limitation, information relating to:
 - (1) Each significant setting in which the child spends time;
 - (2) The recency and nature of the interactions of the child with each parental figure and other significant person in the child's life; and
 - (3) The developmental needs of the child.
- (f) Provide an opportunity for the child to meet privately with the psychologist and express any concerns he may have;
- (g) Determine whether other psychologists are evaluating the child and, if so, coordinate, to the extent possible, with those psychologists to minimize the possibility of conducting redundant child custody evaluations;

(h) Base his determination of the scope of the child custody evaluation on the best interests of the child, regardless of whether a request was made to evaluate only one aspect of the custody of the child;

(i) Before performing the child custody evaluation:

(1) Obtain the informed written consent of each adult *being assessed, and* who is participating in the child custody evaluation and, to the extent practicable, of the child who is the subject of the child custody evaluation;

(2) Inform each participant in the child custody evaluation, including, to the extent practicable, the child who is the subject of the child custody evaluation, of the conditions set forth in subsection 2, 3 and 4 of NAC 641.224 pursuant to which the psychologist will disclose confidential information relating to the child custody evaluation;

(3) Inform each participant in the child custody evaluation, including, to the extent practicable, the child who is the subject of the child custody evaluation, of the limitations on the confidentiality of communications with the psychologist as required pursuant to subsections 5 and 6 of NAC 641.224; and

(4) Clarify the cost of the child custody evaluation and obtain an agreement concerning the payment of fees;

(j) Base an opinion relating to child custody on the integration of all the information obtained as part of the child custody evaluation without placing an inappropriate emphasis on data relating to clinical assessment and after taking into consideration any limitations in the information obtained or the methods used to obtain the information; and

(k) Complete the child custody evaluation in a timely manner.

(l) The psychologist shall not render any opinion regarding the psychological functioning of any individual who has not been personally evaluated by the psychologist. This subsection (l) does not preclude the psychologist from reporting what an evaluated individual has stated or from addressing theoretical or hypothetical questions, so long as the limited basis of the information is noted.

2. As used in this section:

(a) “Child custody evaluation” means any evaluation which is performed by a psychologist and which is intended to affect the legal relationship between a child and:

- (1) The biological parent, adoptive parent or foster parent of the child;
- (2) A surrogate; or
- (3) Any other legal guardian.

(b) “Surrogate” has the meaning ascribed to it in NRS 126.045.