

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

LCB File No. R095-23

May 1, 2024

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

AUTHORITY: § 1, NRS 641.100 and section 1 of Assembly Bill No. 244, chapter 503, Statutes of Nevada 2023, at page 3141; § 2, NRS 641.100 and 641.220, as amended by section 5 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1180; §§ 3 and 4, NRS 641.100.

A REGULATION relating to psychology; interpreting the term “mental examination” for certain purposes; increasing the number of hours of instruction relating to cultural competency that a psychologist is required to complete; prohibiting a licensee from disclosing psychological test material or psychological test data under certain circumstances; updating certain information concerning a publication adopted by reference; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

With certain exceptions, Assembly Bill No. 244 of the 2023 Legislative Session established certain substantive rights for persons compelled to submit to a mental examination pursuant to a court order, a contractual obligation or any other type of obligation. (Section 1 of Assembly Bill No. 244, chapter 503, Statutes of Nevada 2023, at page 3141) **Section 1** of this regulation provides that, for purposes of those requirements, the Board of Psychological Examiners will interpret the term “mental examination” to mean a comprehensive clinical interview in which psychosocial data is collected.

Assembly Bill No. 267 (A.B. 267) of the 2023 Legislative Session increased from 2 to 6 the number of hours of instruction relating to cultural competency and diversity, equity and inclusion a psychologist must receive as a prerequisite for the renewal of a license. (NRS 641.220, as amended by section 5 of Assembly Bill. No. 267, chapter 202, Statutes of Nevada 2023, at page 1180) **Section 2** of this regulation revises the requirements for continuing education in existing regulations to conform with the changes made by A.B. 267.

Existing law authorizes the Board to adopt regulations governing the practice of psychology. (NRS 641.100) Existing regulations prohibit a psychologist or licensed behavior analyst from reproducing or describing psychological tests or other assessment procedures in a manner which may invalidate the tests or procedures. (NAC 641.234) **Section 3** of this regulation prohibits a licensee from disclosing psychological test material or psychological test data to any person or during any judicial proceeding, administrative proceeding or legislative proceeding, unless an exception applies. **Section 3** also: (1) authorizes a person who is the

subject of a psychological test or assessment procedure to request that records related to the psychological test or assessment procedure be disclosed to a designated psychologist; and (2) prescribes requirements relating to such a request.

Existing regulations adopt by reference the *Ethical Principles of Psychologists and Code of Conduct* adopted by the American Psychological Association. (NAC 641.250) **Section 4** of this regulation makes a technical change to reflect the current Internet address at which a person may obtain a copy of this publication free of charge.

Section 1. Chapter 641 of NAC is hereby amended by adding thereto a new section to read as follows:

1. As used in section 1 of Assembly Bill No. 244, chapter 503, Statutes of Nevada 2023, at page 3141, the Board will interpret the term “mental examination” to mean a comprehensive clinical interview in which psychosocial data is collected. The term may include, without limitation, the completion of a psychological examination or mental status examination by a licensed psychologist, psychological assistant, psychological intern or psychological trainee. The term does not include psychological testing.

2. As used in this section, “psychological testing” means the administration of testing that uses standardized psychometric measures of psychological functioning, cognitive and motor functioning, symptom and performance validity and any other skill or ability used to provide a diagnosis or recommendation.

Sec. 2. NAC 641.136 is hereby amended to read as follows:

641.136 1. To renew his or her license, a psychologist must certify to the Board that during the 2 years immediately preceding the date he or she submits an application for renewal, he or she has completed 30 hours of continuing education in courses approved by the Board. At least 6 hours must include instruction in scientific and professional ethics and standards, and common areas of professional misconduct. At least 2 hours must include instruction in evidence-based suicide prevention and awareness. At least ~~2~~ 6 hours must include instruction relating to

cultural competency and diversity, equity and inclusion. Not more than 15 hours may be obtained from an approved home study course. A licensee may not receive credit for continuing education for a course in which he or she is the instructor.

2. Except as otherwise provided in subsection 3, the Board will accept the following types of continuing education courses or programs:

(a) Formally organized workshops, seminars or classes which maintain an attendance roster and are conducted by or under the auspices of an accredited institution of higher education offering graduate instruction.

(b) Workshops, seminars or classes which maintain an attendance roster and are certified or recognized by a state, national or international accrediting agency, including, but not limited to:

- (1) The American Psychological Association;
- (2) The American Psychiatric Association;
- (3) The American Medical Association;
- (4) The American Association for Marriage and Family Therapy;
- (5) The American Counseling Association;
- (6) The International Congress of Psychology; or
- (7) The National Association of Social Workers.

(c) Other workshops, classes, seminars and training sessions in psychology or a closely related discipline which have a formal curriculum and attendance roster and receive approval by the Board.

(d) Home study courses in psychology or a closely related discipline that are approved by the Board.

3. Before a licensee may receive credit for continuing education for a course in scientific and professional ethics and standards and common areas of professional misconduct, for a course in evidence-based suicide prevention and awareness, or for a course relating to cultural competency and diversity, equity and inclusion, the licensee must submit information concerning the course to the Board for approval of the course unless the Board has previously approved the course. The Board will make available at its office a list of courses and programs that are currently approved by the Board.

Sec. 3. NAC 641.234 is hereby amended to read as follows:

641.234 1. If a psychologist or licensed behavior analyst communicates the results of an assessment procedure to a patient or client or to the legal guardian, parents or agent of a patient or client, he or she shall:

(a) Use appropriate interpretive aids to explain the results in a manner which is understandable; and

(b) Include in the explanation any deficiencies of the assessment procedure and factors which may affect the validity, reliability or other interpretation of the results.

2. A psychologist or licensed behavior analyst shall not reproduce or describe in any popular publications, lectures or public presentations, psychological tests or other assessment procedures in a manner which may invalidate the tests or procedures.

3. *Except as otherwise provided in subsection 4 or where otherwise required by specific federal or state law, a person who is licensed or registered by the Board shall not disclose psychological test material or psychological test data:*

(a) To any person, including, without limitation, the person who is the subject of the psychological test or assessment procedure; or

(b) During any judicial proceeding, administrative proceeding or legislative proceeding.

4. A person who is the subject of a psychological test or assessment procedure may request that records related to the psychological test or assessment procedure be disclosed to a designated psychologist. Any such request must be made in writing and comply with all applicable federal and state laws relating to the disclosure of mental health information, including, without limitation, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Upon receipt of such a request, a person who is licensed or registered by the Board shall disclose to the designated psychologist all records related to the psychological test or assessment procedure. Nothing in this subsection shall be construed to authorize the inspection of psychological test materials by a person who is the subject of a psychological test or assessment procedure.

5. If a psychologist or licensed behavior analyst offers to other professionals an assessment procedure or automated interpretation service, he or she shall:

(a) Provide a manual or other written material which fully describes the development of the procedure or service, the rationale therefor, evidence of the validity and reliability thereof, and characteristics of the group of persons which the procedure or service uses as a norm;

(b) Explicitly state the purpose and application for which the procedure or service is recommended;

(c) Identify special requirements which are necessary to administer and interpret the procedure or service properly; and

(d) Ensure that advertisements for the procedure or service provide an accurate description of the procedure or service.

6. As used in this section:

(a) *“Psychological test data” has the meaning ascribed to the term “test data” in the Ethical Principles of Psychologists and Code of Conduct adopted by reference pursuant to subsection 1 of NAC 641.250.*

(b) *“Psychological test material” has the meaning ascribed to the term “test material” in the Ethical Principles of Psychologists and Code of Conduct adopted by reference pursuant to subsection 1 of NAC 641.250.*

Sec. 4. NAC 641.250 is hereby amended to read as follows:

641.250 1. The provisions set forth in the most recent edition of the *Ethical Principles of Psychologists and Code of Conduct* adopted by the American Psychological Association are hereby adopted by reference and incorporated herein, unless the Board gives notice that the most recent edition is not suitable for this State pursuant to subsection 3 and except to the extent that those provisions conflict with the provisions of NAC 641.200 to 641.255, inclusive, in which case the provisions of NAC 641.200 to 641.255, inclusive, are controlling. A copy of the publication may be obtained free of charge from the American Psychological Association at 750 First Street, N.E. Washington, D.C., 20002-4242, Attention: Service Center, at the Internet address ~~<http://www.apa.org/ethics/code.html>~~ <https://www.apa.org/ethics/code> or by telephone at (202) 336-5500.

2. The provisions set forth in the most recent edition of the *Code of Conduct* adopted by the Association of State and Provincial Psychology Boards are hereby adopted by reference and incorporated herein, unless the Board gives notice that the most recent edition is not suitable for this State pursuant to subsection 3 and except to the extent that those provisions conflict with the provisions of NAC 641.200 to 641.255, inclusive, in which case the provisions of NAC 641.200 to 641.255, inclusive, are controlling. A copy of the publication may be obtained free of charge

from the Association of State and Provincial Psychology Boards at 215 Market Road, Tyrone, GA 30290, Attention: Member Services, at the Internet address [http:// www.asppb.net](http://www.asppb.net) or by telephone at (678) 216-1175.

3. If the publication adopted by reference pursuant to subsection 1 or 2 is revised, the Board will review the revision to ensure its suitability for this State. If the Board determines that the revision is not suitable for this State, the Board will hold a public hearing to review its determination within 6 months after the date of publication of the revision and give notice of that hearing. If, after the hearing, the Board does not revise its determination, the Board will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1 or 2.