

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

LCB File No. R115-19

January 31, 2020

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

AUTHORITY: §§1, 3, 4, 8 and 9, NRS 641.100; §2, NRS 641.100, 641.110, 641.170 and 641.390; §5, NRS 641.100, 641.110 and 641.170; §§6 and 7, NRS 641.100 and 641.170.

A REGULATION relating to psychologists; clarifying certain requirements concerning the licensure by the Board of Psychological Examiners of a person who is engaged in the teaching of psychology or psychological research; requiring a psychologist to designate a custodian of health care records; requiring a psychologist who intends to cease providing services to provide certain notice to the Board and to his or her patients; requiring the custodian of the records of a psychologist who has died or discontinued practice to maintain such records for a period of time; revising provisions governing the education and experience required to be completed by an applicant for licensure as a psychologist; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governing the practice of psychology specifies that a person is not prevented from engaging in the teaching of psychology or in psychological research without obtaining a license if the teaching or research does not involve the delivery or supervision of direct psychological services to a person. (NRS 641.390) **Section 2** of this regulation clarifies that a person is prohibited from engaging in the teaching of psychology or in psychological research that involves the delivery or supervision of direct psychological services unless the person holds a license to practice psychology, is

actively registered as a psychological assistant or obtains approval from the Board to engage in such teaching or research.

Existing law requires a custodian of health care records to retain such records for a specified period of time after the receipt or production of such records. (NRS 629.051) Existing regulations require a psychologist to maintain certain records for his or her patients for a period of time after the psychologist ceases to provide services to the patient or the patient reaches 21 years of age, whichever is longer. (NAC 641.219) **Section 3** of this regulation requires a psychologist to designate a custodian of health care records to maintain the patient records of the psychologist in the event of the psychologist's death or the discontinuation of his or her practice. **Section 3** requires a psychologist who intends to cease providing services to patients to: (1) notify the Board in writing and specify the person or facility that will maintain the patient records of the psychologist; and (2) notify his or her patients in writing and provide an opportunity for patients to request and receive their records. **Section 3** also requires a custodian of health care records who takes custody of the patient records of a psychologist following the psychologist's death or discontinuation of practice to retain such records for a length of time that is not less than the length of time that the psychologist would have been required to retain such records.

Existing regulations provide that an applicant is not eligible for licensure as a psychologist unless he or she completes certain supervised and documented postdoctoral experience, including a certain percentage of hours dedicated to providing clinical services. (NAC 641.080) **Section 5** of this regulation requires that at least 15 percent of the hours of postdoctoral experience consist of face-to-face client care. **Section 5** also provides that faculty hired at an accredited institution of higher education may fulfill the clinical services requirement through hours spent engaged in activities related to certain clinical research.

Existing regulations establish requirements for the supervision of a psychological assistant or psychological intern by a psychologist, including a requirement that a

psychological assistant or psychological intern be an employee of the supervisor or subject to the control and discretion of a supervisor who is affiliated with the same agency or institution as the psychological assistant or psychological intern. (NAC 641.152) **Section 6** of this regulation requires that, if a psychological assistant or psychological intern is not an employee of the supervisor, ~~the psychological assistant or psychological intern be employed at the same agency or institution that employs the supervisor if a psychological assistant or psychological intern is not an employee of the supervisor, an agreement be in place specifying payment of the psychological assistant or psychological intern and the role of the supervisor or a training committee in training.~~

Existing regulations require, except in certain limited circumstances, that a psychological assistant or psychological intern be paid a fixed wage on a periodic basis. (NAC 641.154) **Section 7** of this regulation removes the requirement for the payment of a fixed wage and, instead, requires a psychological assistant or psychological intern to be paid a stipend on a fixed schedule over the course of his or her training.

Sections 4 and 8 of this regulation update certain internal references to reflect changes in statute.

Section 1. Chapter 641 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2.

1. Except as otherwise provided in subsection 2, a person who is engaged in the teaching of psychology or in psychological research is not required to obtain a license to practice psychology pursuant to chapter 641 of NRS.

2. A person shall not engage in the teaching of psychology or in psychological research that involves the delivery or supervision of direct psychological services unless he or she:

(a) Holds a license to practice psychology pursuant to chapter 641 of NRS;

(b) Is actively registered as a psychological assistant pursuant to chapter 641 of NRS; or

(c) Has obtained approval from the Board to engage in such teaching or research without holding a license to practice psychology or being actively registered as a psychological assistant.

Sec. 3.

1. A psychologist shall designate a custodian of health care records to maintain the patient records of the psychologist for the period required by NRS 629.051 and NAC 641.219 in the event of the death of the psychologist or discontinuation of practice, whether temporary or permanent.

2. A psychologist who intends to cease providing services to patients, whether on a temporary or permanent basis, shall:

(a) Notify the Board in writing at least 30 days before he or she ceases to provide services to patients and specify in the notice the person who or facility that will maintain the patient records of the psychologist for the period required by NRS 629.051 and NAC 641.219.

(b) Provide documented informed consent to the patient informing them who the custodian of records will be in the event of death or incapacitation of the psychologist or discontinuation of the practice.

3. A custodian of health care records who takes custody of the patient records of the psychologist upon the discontinuation of practice, whether temporary or permanent, or death of the psychologist must retain such

records for a period of time not less than the period of time that the psychologist would have been required to retain such records pursuant to this section and NRS 629.051.

4. "Custodian of health care records" refers to a licensed psychologist or agency familiar with the legal and ethical guidelines for maintaining and releasing medical records.

Sec. 4. NAC 641.050 is hereby amended to read as follows:

641.050 1. For the purposes of paragraph ~~[(e)]~~ (c) of subsection 1 of NRS 641.170, the Board adopts the current list of programs holding accreditation status from the American Psychological Association. This current list of programs may be obtained, free of charge, from the American Psychological Association, at the Internet address **<http://www.apa.org/ed/accreditation>**.

2. For the purposes of paragraph (d) of subsection 2 of NRS 641.170, the Board adopts the current list of programs holding accreditation status from the Association for Behavior Analysis International. This list is available at the Internet address **[.http://www.abainternational.org/BA/education/Education.asp](http://www.abainternational.org/BA/education/Education.asp)**

3. For the purposes of subsections 1, 2 and 3 of NRS 641.170, the Board considers the following to be accredited educational institutions:

(a) In the United States, all institutions which are regionally accredited by regulatory bodies approved by the Council for Higher Education Accreditation and the United States Department of Education;

(b) In Canada, all institutions holding membership in the Association of Universities and Colleges of Canada; or

(c) In any other country, all institutions accredited by the respective official organization having such authority.

Sec. 5. NAC 641.080 is hereby amended to read as follows:

641.080 1. Before an applicant is eligible for licensure as a psychologist, he or she must complete 2 years of supervised and documented experience that 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)~~ (d) of subsection 1 of NRS 641.170 must be supervised experience and must comply with the following requirements:

(a) The first year must satisfy the requirements of subsection 4; and

(b) The second year must be postdoctoral, must consist of not less than 1,750 hours and must:

(1) Meet the guidelines established by the Association of State and Provincial Psychology Boards; or

(2) Satisfy the requirements of subsection 6.

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

(a) Each year must consist of not less than 1,500 hours;

(b) One year must satisfy the requirements of subsection 4; and

(c) One year must be postdoctoral and must satisfy the requirements of subsection 6.

4. For the purposes of paragraph (a) of subsection 2 and paragraph (b) of subsection 3, 1 year of supervised experience must be satisfactorily completed in:

(a) A doctoral internship program accredited by the American Psychological Association; or

(b) A doctoral internship that is equivalent to a doctoral internship in a program that is accredited by the American Psychological Association. An applicant, his or her proposed supervisor and a representative of the proposed agency or institution at which the internship will be conducted must submit to the Board a plan to meet the requirements of this paragraph and information showing that the proposed internship substantially complies with the accreditation standards for doctoral internship programs in the *Standards of Accreditation for Health Service Psychology* of the American Psychological Association, which is available, free of charge, at the Internet address , and Section C of the *Implementing Regulations* of the Commission on Accreditation of the American Psychological Association which is available, free of charge, at the Internet address **<http://www.apa.org/ed/accreditation/index.aspx>**, and Section C of the *Implementing Regulations* of the Commission on Accreditation of the American Psychological Association which is available, free of charge, at the Internet address **<http://www.apa.org/ed/accreditation/section-c-soa.pdf>**. Substantial compliance with such standards may be demonstrated by submission to the Board of information showing that the proposed doctoral internship:

(1) Requires completion of the internship in an agency or institution that provides services to a population sufficient in number and diversity to give the intern adequate experiential exposure to meet the purposes, aims and competencies of the internship.

(2) Requires the intern to complete a minimum of 2,000 hours of training, which must be completed:

(I) If on a full-time basis, in not less than 12 months; or

(II) If on a part-time basis, in not less than 24 months.

(3) Offers education and training conducted in a single-site or multiple-site setting that prepares interns for the practice of health service psychology.

(4) Includes a training program that meets the requirements set forth in subsection 5.

5. A proposed doctoral internship that is not accredited by the American Psychological Association must include a training program that, without limitation:

(a) Is an integral part of the mission of the agency or institution in which the program is provided, with administrative and structural processes that facilitate systematic coordination, control, direction and organization of the training activities and resources of the program.

(b) Recognizes the importance of cultural and individual differences and diversity in the training of psychologists.

(c) Demonstrates the adequacy of its educational and training resources, including, without limitation, clerical and technical support, access to training materials and equipment that reflect the current knowledge base in the profession, and physical facilities that are appropriate for confidential interactions and are compliant with the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto.

(d) Has policies and procedures that are consistent with those described in the accreditation standards for doctoral internship programs in the *Standards of Accreditation for Health Service Psychology* of the American Psychological Association, including, without limitation, policies relating to:

- (1) The recruitment and selection of interns;
- (2) The required prior doctoral preparation and experiences;
- (3) Providing administrative and financial assistance to interns;
- (4) The requirements for successful internship performance;
- (5) Performance evaluations, feedback, retention and termination decisions relating to interns;

- (6) The identification and remediation of insufficient competence and problematic behavior by an intern;
 - (7) Grievance procedures for interns, including the provision of due process;
 - (8) The requirements for supervision of an intern as set forth in paragraphs (q), (r) and (s);
 - (9) Maintenance of records; and
 - (10) Nondiscrimination, including documentation of such policies and operating procedures.
- (e) Has policies and procedures that are consistent with the profession’s current ethics code and which adhere to:
- (1) The regulations of the agency or institution; and
 - (2) All applicable local, state and federal laws regarding due process and fair treatment.
- (f) Requires the retention of records on the performance of interns and complaints and grievances against the program or persons associated with the program.
- (g) Ensures a welcoming, supportive and encouraging learning environment for all interns, including those from diverse and underrepresented communities.
- (h) Recognizes the right of interns, faculty and staff to be treated with courtesy and respect.
- (i) Recognizes science as the core of health service psychology and relies on the current evidence base in the training and assessment of interns.
- (j) Requires an intern to demonstrate competency in profession-wide competencies, including, without limitation:
- (1) Research;
 - (2) Ethical and legal standards;

- (3) Individual and cultural diversity;
- (4) Professional values, attitudes and behaviors;
- (5) Communication and interpersonal skills;
- (6) Assessment;
- (7) Intervention;
- (8) Supervision; and
- (9) Consultation, interprofessional and interdisciplinary skills.

(k) Demonstrates a clear and coherent plan for educational activities that support the achievement of interns in profession-wide and program-specific competencies.

(l) Employs primarily an experiential training method that:

(1) Involves the delivery of services by an intern in direct contact with recipients of those services; and

(2) Includes sufficient observation and supervision by doctoral-level licensed psychologists to facilitate the readiness of the intern to enter into the general practice of psychology upon completion of the training.

(m) Follows a logical and cumulative training sequence that builds on the skills and competencies acquired by the intern during training and is graded in complexity in a manner consistent with that sequence.

(n) Demonstrates that the tasks and duties associated with the delivery of service by an intern are primarily learning-oriented and that the training considerations of interns take precedence over the delivery of service and the generation of revenue.

(o) Maintains appropriate and transparent communication practices, including, without limitation:

(1) Articulating the commitment of the program to attracting and training diverse clients;

(2) Ensuring regular communication between the doctoral program and the doctoral internship program;

(3) Ensuring that all communications with potential and current interns are informative, accurate and transparent;

(4) Disclosing the status of the program with regard to accreditation; and

(5) Demonstrating a commitment to public disclosure.

(p) Provides adequate financial support for:

(1) Interns;

(2) Faculty and staff; and

(3) Sufficient and dependable training activities for the duration of the year or years of any contracts with interns.

(q) Provides supervision in a regularly scheduled manner and ensures that:

(1) Each intern has access to consultation and supervision during the times he or she is providing clinical services; and

(2) Each intern receives not less than 4 hours per week of supervision, including not less than 2 hours per week of face-to-face individual supervision by one or more doctoral-level licensed psychologists who are involved in an ongoing supervisory relationship with the intern and have primary professional responsibility for the cases on which face-to-face individual supervision is provided.

(r) Ensures that any supervisory hours other than the 2 hours of face-to-face individual supervision required by subparagraph (2) of paragraph (q) are:

(1) Consistent with the definition of supervision in the glossary of the *Standards of Accreditation for Health Service Psychology* of the American Psychological Association;

(2) Conducted by health care professionals who are appropriately credentialed;
and

(3) Interactive experiences in a group or individual format.

(s) Requires that overall responsibility for the supervision of interns, including oversight and integration of supervision provided by non-psychologist professionals, is maintained by doctoral- level licensed psychologists.

6. For the purposes of subparagraph (2) of paragraph (b) of subsection 2 and of paragraph (c) of subsection 3, supervised experience is credited only for:

(a) Professional work in a setting that provides an opportunity for interaction with colleagues and an opportunity for work with a broad range of clients, including, without limitation, a private practice and a public or private agency, institution or organization;
and

(b) Work experience that is other than experience which is acquired in connection with a practicum for which graduate credits are granted and which complies with the following requirements:

(1) The number of hours required pursuant to paragraph (b) of subsection 2 or paragraph (a) of subsection 3 must be completed in not less than 10 months and not more than 3 years unless otherwise approved by the Board;

(2) Unless otherwise approved by the Board ~~[-at]~~ :

(I) At least 50 percent of the hours per week of the supervised experience must be spent providing clinical services, including, without limitation, psychological services rendered directly to an individual, couple, family or group, psychological testing, and individual or group supervision relating to those services; and

(II) At least 15 percent of the hours per week of the supervised experience must be spent providing face-to-face client care;

(3) The hours per week of the supervised experience that are not spent in the manner set forth in subparagraph (2) must be spent engaging in an activity related to psychology, including, without limitation, teaching psychology, [~~researching psychology~~] *performing psychological research in a manner not covered by the provisions of subsection 8* and engaging in administrative activities related to psychology or in any other activity related to psychology; and

(4) At least 40 hours of the supervised experience must be spent receiving training in cultural, ethnic and group processes as social bases of behavior and at least 3 hours of individual face-to-face supervision must be spent focused on that area of psychology. Such hours may be obtained by, without limitation:

(I) Conducting clinical work directly with culturally diverse or underserved populations;

(II) Reading materials related to culturally diverse populations;

(III) Researching an issue related to culturally diverse populations;

(IV) Attending a workshop, conference or seminar concerning working with culturally diverse populations;

(V) Giving a presentation related to culturally diverse populations at a workshop, conference or seminar; and

(VI) Authoring a publication related to culturally diverse populations.

7. Unless an applicant is registered as a psychological assistant or psychological intern, he or she may not apply hours during which he or she practiced as another type of licensed medical or behavioral health provider toward the supervised experience that is required for licensure as a psychologist pursuant to this section.

8. For faculty hired at an accredited institution of higher education, hours spent engaged in activities related to clinical research involving the provision of treatment to test the efficacy or effectiveness of psychotherapeutic

techniques or to test or identify different mechanisms of change or factors related to treatment outcome, may be used to meet the requirements set forth in subparagraph (2) of paragraph (b) of subsection 6. Such activities include, without limitation:

(a) Supervision of the implementation of treatment protocols;

(b) Direct implementation of treatment protocols;

(c) Writing test results and other reports;

(d) Note writing in connection with the provision of services;

(e) Data monitoring for adverse effects;

(f) Working with institutional review boards to ensure patient safety;

(g) Developing and modifying study design and treatment protocols for the implementation of such studies;

(h) Monitoring and reviewing treatment sessions during clinical trials for adherence to treatment protocols; and

(i) Writing the results of such research.

Sec. 6. NAC 641.152 is hereby amended to read as follows:

641.152 1. Except as otherwise provided in subsection 5, a psychological assistant or psychological intern may work only under the supervision and control of a psychologist who satisfies the requirements of NAC 641.1519.

2. Except as otherwise provided in subsection 5, a psychological trainee may work only under the supervision and control of a supervisor who is formally assigned by his or her home doctoral training program in compliance with required practicum training elements set forth in the *Standards of Accreditation for Health Service Psychology* of the American Psychological Association and Section C of the *Implementing Regulations* of the Commission on Accreditation of the American Psychological Association.

3. Subject to the conditions set forth in subsection 5 and NAC 641.161:

(a) A psychological assistant may supervise a psychological intern or psychological trainee for the purposes of training in supervision in accordance with the national training standards set forth in the *Standards of Accreditation for Health Service Psychology* of the American Psychological Association, which is available, free of charge, at the Internet address <http://www.apa.org/ed/accreditation/section-c-soa.pdf>.

(b) A psychological intern may supervise a psychological trainee for the purposes of training in supervision in accordance with the national training standards set forth in the *Standards of Accreditation for Health Service Psychology* of the American Psychological Association.

4. The supervisor of a psychological assistant, psychological intern or psychological trainee is responsible for:

(a) The adequate supervision of the psychological assistant, psychological intern or psychological trainee; and

(b) The care plan of each client and patient treated or assessed by a psychological intern or psychological trainee under the supervision of the psychological assistant or psychological intern, as applicable, pursuant to subsection 3.

5. For specific skill training, the supervisor of a psychological assistant, psychological intern or psychological trainee may assign the psychological assistant, psychological intern or psychological trainee to a specialist, including, without limitation, a person who is licensed in this State as a psychiatrist, social worker, marriage and family therapist or clinical professional counselor or a person who is licensed or certified in this State as an alcohol and drug abuse counselor. The specialist must have clearly established practice and teaching skills that are demonstrable to the satisfaction of the Board. Not more than one-quarter of the number of supervised hours needed to fulfill the required year of postdoctoral experience may be accrued under the direction of

specialists. Any services submitted by a supervisor for reimbursement under the State Plan for Medicaid that were rendered under the authorized scope of practice of a psychological assistant, psychological intern or psychological trainee pursuant to NRS 422.27239 while under the supervision of a specialist pursuant to this subsection must also be supervised by the supervisor.

6. A psychological assistant or psychological intern must be:

(a) An employee of the supervisor; or

(b) ~~Subject to the control and direction of a supervisor who is affiliated with the same agency or institution at which the psychological assistant or psychological intern, as applicable, works.~~ *If not employed by the supervisor or the agency the psychological assistant or psychological intern is based at, there shall be a formal written agreement in place that specifies payment and the role of the supervisor and/or a training committee over the training. The supervisor/training committee will have access to patient medical records and full oversight and responsibility of the psychological assistant or psychological intern and their training plan. The psychological assistant or psychological intern may not be an independent contractor.*

Sec. 7. NAC 641.154 is hereby amended to read as follows:

641.154 1. Except as otherwise provided in this subsection, a psychological assistant or psychological intern is entitled to be paid a ~~fixed wage on a periodic basis, and~~ *stipend in equal amounts on a fixed schedule over the course of his or her training. The stipend* may not be paid based on the number of clients treated or assessed, the amount of money reimbursed by an insurance plan or a percentage of the fees received. An employment agreement which is proposed to be entered into by a psychological assistant or psychological intern and does not provide for the payment of a ~~wage~~ *stipend* may be approved by the Board pursuant to NAC 641.153 if the Board determines that the agreement is in the best interest of the psychological assistant or psychological intern.

2. If a psychological trainee is paid, he or she must be paid a fixed wage on a periodic basis, and may not be paid based on the number of clients treated or assessed, the amount of money reimbursed by an insurance plan or a percentage of the fees received.
3. A psychological assistant, psychological intern or psychological trainee may not receive fees for professional services except as the agent of his or her employing supervisor or agency.
4. Except as otherwise provided in this subsection, a supervisor may not accept compensation from a psychological assistant, psychological intern or psychological trainee for his or her supervision. In extenuating circumstances, the Board may approve the acceptance of such compensation by a supervisor. Any agreement concerning compensation of a supervisor by a psychological assistant, psychological intern or psychological trainee for his or her supervision must:
 - (a) Clearly establish which licensed mental health or behavioral health professional accepts responsibility for the practice of the psychological assistant, psychological intern or psychological trainee pursuant to subsection 2 of NAC 641.161; and
 - (b) Be approved by the Board before it becomes effective.
5. A supervisor shall ensure that the emphasis of the supervised experience of a psychological assistant, psychological intern or psychological trainee whom he or she supervises is on training the psychological assistant, psychological intern or psychological trainee, as applicable, rather than on the raising of revenue by the psychological assistant, psychological intern or psychological trainee, as applicable.

Sec. 8. NAC 641.159 is hereby amended to read as follows:

641.159 1. A supervisor and his or her psychological assistant or psychological intern shall keep a regular log of supervised professional experience intended to meet the requirements of paragraph ~~(e)~~ (d) of subsection 1 of NRS 641.170.

2. The log must show:

- (a) The nature of the professional activities and services rendered by the psychological assistant or psychological intern;
 - (b) The population or clients served; and
 - (c) Any supervisory contacts.
3. Entries to the log must be verified by the supervisor and the psychological assistant or psychological intern.

Sec. 9. NAC 641.200 is hereby amended to read as follows:

641.200 1. The provisions of NAC 641.200 to 641.255, inclusive ~~§§~~, *and section 3 of this regulation:*

(a) Apply to the conduct of any licensee or any applicant for licensure pursuant to this chapter and chapter 641 of NRS, including conduct during any period of education, training or employment required for licensure.

(b) Constitute the standards of conduct which a psychologist, licensed behavior analyst or licensed assistant behavior analyst shall follow in the provision of services.

2. A violation of the provisions of NAC 641.200 to 641.255, inclusive, *and section 3 of this regulation* constitutes unprofessional conduct and is a ground for disciplinary action or the denial of an application for an initial license or the renewal of a license.