

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

LCB File No. R128-21

January 26, 2022

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

AUTHORITY: §§ 1 and 2, NRS 641.100 and section 2 of Assembly Bill No. 366, chapter 367, Statutes of Nevada 2021, at page 2191 (NRS 641.2291).

A REGULATION relating to psychology; establishing requirements governing the use of a recording of the provision of services by a psychologist to a patient for a training activity; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law imposes various requirements concerning the retention, maintenance and disclosure of health care records, including the patient or client records of a psychologist. (NRS 629.051-629.069) Existing law provides that a mental health professional involved in a program of education for certain mental health professionals approved by the Board of Psychological Examiners is not required to retain a recording of the provision of services by a psychologist to a patient if: (1) the recording is used for a training activity; (2) the patient has provided informed written consent to the use of the recording in the training activity; (3) destroying the recording does not result in the maintenance of incomplete patient records; and (4) the recording is destroyed after a period of time prescribed by the Board. (Section 2 of Assembly Bill No. 366, chapter 367, Statutes of Nevada 2021, at page 2191 (NRS 641.2291)) **Section 1** of this regulation defines the term “training activity” and interprets the term “recording” for those purposes. **Section 1** prescribes: (1) the information that must be included on a form on which a patient may provide informed consent to the use of a recording for a training activity; (2) requirements concerning the maintenance of such a form and the maintenance of a recording used for a training activity; and (3) the period of time after which a recording used for a training activity must be destroyed. **Section 2** of this regulation makes a conforming change to indicate the placement of **section 1** in the Nevada Administrative Code.

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

1. The form on which a patient provides informed written consent for the use of a recording in a training activity pursuant to section 2 of Assembly Bill No. 366, chapter 367, Statutes of Nevada 2021, at page 2191 (NRS 641.2291), must inform the patient of:

(a) The manner in which the psychological service will be recorded;

(b) The people who will have access to the recording, including, without limitation, the name of the supervisor of the training activity for which the recording will be used;

(c) The manner in which the recording will be confidentially stored; and

(d) The date on which the recording will be destroyed and the manner in which the recording will be destroyed.

2. A person having custody or control of the form on which a patient has provided informed consent to the use of a recording in a training activity pursuant to subsection 1 shall maintain the form in accordance with subsection 2 of NAC 641.219.

3. A person having custody or control of a recording that is used or maintained for the purpose of a training activity pursuant to section 2 of Assembly Bill No. 366, chapter 367, Statutes of Nevada 2021, at page 2191 (NRS 641.2291), shall:

(a) Maintain the recording in accordance with NAC 641.224; and

(b) Ensure that the recording is destroyed not later than the earlier of:

(1) The completion of the review of the recording by the supervisor of the training activity; or

(2) Thirty days after the date on which the recording was made.

4. As used in this section and section 2 of Assembly Bill No. 366, chapter 367, Statutes of Nevada 2021, at page 2191 (NRS 641.2291):

(a) The Board interprets the term “recording” to mean an audio or video tape documenting the practice of psychology.

(b) “Training activity” means a supervised activity, including, without limitation, the provision of psychotherapy to, consultation with, psychological assessment of or psychological evaluation of a person, family, couple or group, conducted by a psychologist participating in a formal professional training program for the purpose of developing professional competency.

The purposes of a training activity may include, without limitation:

(1) The training of a psychologist in a new specialty;

(2) Ongoing professional consultation between psychologists; and

(3) The supervised practice of a psychologist mandated by the Board as a result of a disciplinary proceeding.

Sec. 2. 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 1 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 1 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.