

Amendment No. 434

Senate Amendment to Senate Bill No. 276

(BDR 54-98)

Proposed by: Committee on Commerce and Labor**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend the bill as a whole by deleting sections 2 through 41 and adding new sections designated sections 2 through 41.5, following the enacting clause, to read as follows:

“Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. 1. “Contested case” and “case” have the meaning ascribed to “contested case” in NRS 233B.032.

2. A final decision of a regulatory body approving or denying an application for issuance or renewal of a license is not a contested case for the purposes of this chapter.

Sec. 4. “Employee” includes, without limitation, a person who has a contract to provide services as an independent contractor.

SH/KP

Date: 4/25/2005

S.B. No. 276—Establishes uniform disciplinary process for certain regulatory bodies which administer occupational licensing.



Sec. 5. *“License” means any license, certificate, registration, permit or similar type of authorization issued by a regulatory body.*

Sec. 6. *“Licensee” means a person who holds any license, certificate, registration, permit or similar type of authorization issued by a regulatory body.*

Sec. 7. *“Member of a regulatory body” means a person who is serving as a member or officer of a regulatory body.*

Sec. 8. *“Prosecutor” means any of the following:*

1. *The Attorney General or a deputy attorney general who prosecutes a contested case pursuant to this chapter;*

2. *If the Attorney General and his deputies are disqualified to act in such a matter, an attorney appointed by the Attorney General to prosecute a contested case pursuant to this chapter;*
or

3. *If the regulatory body is authorized to employ or retain attorneys other than the Attorney General and his deputies, an attorney employed or retained by the regulatory body to prosecute a contested case pursuant to this chapter.*

Sec. 9. *“Records” means any records, files, books, documents, papers, information or data in any form.*

Sec. 10. 1. *“Regulatory body” means:*

(a) *Any state agency, board or commission which has the authority to regulate an occupation or profession pursuant to this title; and*

(b) *Any officer of a state agency, board or commission which has the authority to regulate an occupation or profession pursuant to this title.*

2. The term does not include any regulatory body which is exempted from the provisions of this chapter pursuant to section 11 of this act, unless the regulatory body makes an election pursuant to that section to follow the provisions of this chapter.

Sec. 11. 1. The following regulatory bodies are exempted from the provisions of this chapter:

- (a) State Contractors' Board.*
- (b) State Board of Professional Engineers and Land Surveyors.*
- (c) Nevada State Board of Accountancy.*
- (d) Board of Medical Examiners.*
- (e) Board of Dental Examiners of Nevada.*
- (f) State Board of Nursing.*
- (g) Nevada State Board of Optometry.*
- (h) State Board of Pharmacy.*
- (i) Board of Examiners for Marriage and Family Therapists.*
- (j) Real Estate Commission, Real Estate Administrator and Real Estate Division of the Department of Business and Industry.*
- (k) Commission of Appraisers of Real Estate.*
- (l) Commissioner of Mortgage Lending and Division of Mortgage Lending of the Department of Business and Industry.*
- (m) Commissioner of Financial Institutions and Division of Financial Institutions of the Department of Business and Industry.*
- (n) State Board of Health and Health Division of the Department of Human Resources.*

2. Any regulatory body which is exempted from the provisions of this chapter pursuant to subsection 1 may elect by regulation to follow the provisions of this chapter or any portion thereof.

Sec. 12. 1. The provisions of this chapter must be interpreted so as to effectuate their general purpose to make uniform among the regulatory bodies that are subject to the provisions of this chapter the procedures used to prosecute contested cases and take administrative action against a person who violates any law or regulation governing occupational licensing.

2. To the extent possible, the provisions of this chapter are intended to supplement other statutory provisions governing administrative procedure, occupational licensing and regulatory bodies, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of this chapter. If there is a conflict between such other provisions and the provisions of this chapter, the provisions of this chapter control.

Sec. 13. 1. The provisions of this chapter do not affect or limit the authority of a regulatory body, at any stage of a contested case, to make an informal disposition of the contested case pursuant to subsection 5 of NRS 233B.121 or to enter into a consent or settlement agreement approved by the regulatory body pursuant to NRS 622.330.

2. The provisions of this chapter do not affect or limit the authority of a regulatory body to designate a panel of its members to hear a contested case pursuant to this chapter.

Sec. 14. 1. A person who provides a governmental entity, officer or employee with any information relating to a contested case is immune from any civil liability for providing that information if the person acted in good faith and without malicious intent.

2. A governmental entity, officer or employee is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter or any law or regulation governing occupational licensing; or

(b) Communicating or cooperating with or providing any documents or other information to any other governmental entity, officer or employee conducting an investigation, disciplinary proceeding or civil or criminal prosecution.

Sec. 15. 1. *To initiate the prosecution of a contested case, the prosecutor shall file a charging document with the regulatory body and serve the licensee with the charging document.*

2. *The regulatory body shall determine whether the case will be heard by the regulatory body or a hearing panel or officer.*

3. *The regulatory body or hearing panel or officer shall provide the licensee with written notice of the case pursuant to NRS 233B.121 and 241.034.*

4. *If the case is heard by a hearing panel or officer, the hearing panel or officer shall follow the procedures established by this chapter and any other applicable statutory and regulatory provisions governing the case. The hearing panel or officer shall prepare written findings and recommendations and serve the findings and recommendations on the parties and the regulatory body for its review.*

5. *The findings and recommendations of the hearing panel or officer do not become final unless they are approved by the regulatory body after review. In reviewing the findings and recommendations of the hearing panel or officer, the regulatory body may:*

(a) Approve the findings and recommendations, with or without modification;

(b) Reject the findings and recommendations and remand the case to the hearing panel or officer;

(c) Reject the findings and recommendations and order a hearing de novo before the regulatory body; or

(d) Take any other action that the regulatory body deems appropriate to resolve the case.

6. If the case is heard by the regulatory body, the regulatory body shall follow the procedures established by this chapter and any other applicable statutory and regulatory provisions governing the case.

7. The regulatory body or the hearing panel or officer, with the approval of the regulatory body, may consolidate two or more cases if it appears that the cases involve common issues of law or fact and the interests of the parties will not be prejudiced by the consolidation.

Sec. 16. 1. In any contested case against a licensee pursuant to this chapter, the licensee may appear on his own behalf or the licensee may be represented by:

(a) An attorney licensed to practice law in this State; or

(b) An attorney licensed to practice law in another state who is properly associated with an attorney licensed to practice law in this State and who provides a certificate of good standing from the licensing authority of the other state.

2. An attorney representing a licensee shall:

(a) Ensure that his conduct complies with the Nevada Rules of Professional Conduct; and

(b) Conform to all standards of ethical and courteous behavior required in the courts of this State.

3. An attorney may withdraw from his representation of a licensee upon notice to the licensee and the regulatory body or hearing panel or officer. The notice must include the reason for the requested withdrawal. The regulatory body or hearing panel or officer may deny the request if

there may be an unreasonable delay in the case or the substantial rights of the licensee may be prejudiced.

4. If the regulatory body or hearing panel or officer finds that an attorney has violated any provision of this section, the regulatory body or hearing panel or officer may bar the attorney from participating in the case or may impose such other sanctions as the regulatory body or hearing panel or officer deems appropriate.

5. A licensee is responsible for all costs related to the presentation of his defense.

Sec. 17. 1. After being served with the charging document, the licensee may, but is not required to, file an answer to the charging document. The licensee may file such an answer not later than 20 days after the date of service of the charging document.

2. The prosecutor may amend the charging document at any time before the hearing. If the prosecutor amends the charging document before the hearing, the prosecutor shall:

(a) File the amended charging document with the regulatory body or hearing panel or officer; and

(b) Serve the licensee with the amended charging document.

3. After being served with an amended charging document, the licensee may do any or all of the following:

(a) File an answer to the amended charging document. The licensee may file such an answer not later than 20 days after the date of service of the amended charging document or not later than the date of the hearing, whichever date is sooner.

(b) Move for a continuance of the hearing. The regulatory body or hearing panel or officer shall grant the continuance if the licensee demonstrates that:

(1) The amendment materially alters the allegations in the charging document; and

(2) The licensee does not have a reasonable opportunity to prepare a defense against the amended charging document before the date of the hearing.

4. The prosecutor may amend the charging document at the time of the hearing if the amendment is not considered material and the substantial rights of the licensee would not be prejudiced by the amendment.

5. The charging document, any amended charging document and any answer filed by the licensee must be made part of the record at the hearing.

Sec. 18. 1. At any time after being served with the charging document, the licensee may file with the regulatory body or hearing panel or officer a written discovery request for a copy of all documents and other evidence intended to be presented by the prosecutor in support of the case and a list of proposed witnesses.

2. The investigative file for the case is not discoverable unless the prosecutor intends to present materials from the investigative file as evidence in support of the case. The investigative file for the case includes all communications, records, affidavits or reports acquired or created as part of the investigation of the case, whether or not acquired through a subpoena related to the investigation of the licensee.

3. A party may not serve any interrogatories on another party or take any depositions relating to the case, unless permitted by the regulations of the regulatory body.

Sec. 19. A party shall not communicate either directly or indirectly with any member of the regulatory body, any member of the hearing panel or the hearing officer about any issue of fact or law related to the case unless the communication:

1. Is part of a pleading, motion or other document that is properly filed and served on all parties; or

2. Occurs while all parties are present or occurs during a meeting or hearing for which all parties have been given proper notice, whether or not all parties are present at that meeting or hearing.

Sec. 20. 1. If a party fails to appear at a scheduled hearing and a continuance has not been scheduled or granted, any party who is present at the hearing may make an offer of proof that the absent party was given sufficient legal notice. Upon a determination by the regulatory body or hearing panel or officer that the absent party was given sufficient legal notice, the regulatory body or hearing panel or officer may proceed to consider and dispose of the case without the participation of the absent party.

2. If the licensee fails to appear at a hearing, the regulatory body or hearing panel or officer may accept the allegations against the licensee in the charging document as true.

Sec. 21. 1. Except as otherwise provided in this chapter or as permitted by the regulatory body or hearing panel or officer, to request a ruling from the regulatory body or hearing panel or officer on any issue of law or procedure in a case, a party must file a written motion with the regulatory body or hearing panel or officer.

2. A party may file only the following prehearing motions:

(a) A motion requesting a continuance or an extension of time.

(b) A motion requesting, for good cause, the recusal of the hearing officer, a member of the hearing panel or a member of the regulatory body from participation in the case.

(c) A motion requesting the separation of consolidated cases.

(d) A motion requesting a more definite statement regarding the allegations in the charging document on the ground that there is not enough information in the charging document to formulate a defense.

(e) A motion requesting dismissal of the charging document for failure to state facts which, if true, would form a sufficient basis for discipline.

(f) With leave of the regulatory body or hearing panel or officer, any other motion requesting appropriate action or relief before the date of the hearing.

3. A prehearing motion must be filed with the regulatory body or hearing panel or officer at least 10 days before the date of the hearing. A party who opposes the motion may file a response to the prehearing motion not later than 7 days after the date of service of the motion. Upon a showing of good cause, the regulatory body or hearing panel or officer may allow a party to file such a motion or response within such other times as the regulatory body or hearing panel or officer deems appropriate.

4. The regulatory body or hearing panel or officer shall rule on any prehearing motion before or on the date of the hearing. The regulatory body may authorize the president or chairman of the regulatory body to rule on any prehearing motion before the date of the hearing. The hearing panel may authorize the chairman or presiding officer of the hearing panel to rule on any prehearing motion before the date of the hearing.

5. A party may file only the following motions after the commencement of the hearing:

(a) After the prosecutor has concluded the presentation of his case in chief, a motion requesting dismissal of the charging document for failure of the prosecutor to meet his burden of proof.

(b) With leave of the regulatory body or hearing panel or officer, any other motion requesting appropriate action or relief during the hearing.

6. A party may file only the motions set forth in section 24 of this act after the close of the hearing.

Sec. 22. 1. The prosecutor has the burden of proof in any hearing pursuant to this chapter. The standard of proof in such a hearing is substantial evidence.

2. Except as otherwise provided in this chapter, the regulatory body or hearing panel or officer is not bound by strict rules of procedure or rules of evidence when conducting the hearing, except that evidence must be taken and considered in the hearing pursuant to NRS 233B.123.

3. In any hearing pursuant to this chapter, the acts which constitute grounds for initiating disciplinary action against a licensee and the administrative penalties that may be imposed against a licensee are set forth in the occupational licensing chapter governing the licensee.

4. If requested by any party, the hearing or any portion of the hearing must be transcribed. The party making the request shall pay all costs for the transcription.

Sec. 23. 1. Except as otherwise provided in this section, in any hearing pursuant to this chapter, the hearing must proceed as follows:

(a) The president or chairman of the regulatory body, the chairman or presiding officer of the hearing panel or the hearing officer shall call the hearing to order.

(b) The parties and their representatives and the members of the regulatory body, the members of the hearing panel or the hearing officer must be introduced.

(c) The regulatory body or hearing panel or officer shall consider any preliminary motions, stipulations or orders and shall address any administrative details regarding the hearing.

(d) The regulatory body or hearing panel or officer:

(1) Shall ask the parties if they want any witness excluded from the hearing;

(2) Shall instruct any witness who is excluded from the hearing not to discuss the case during the course of the hearing;

(3) Shall allow the licensee to remain in the hearing;

(4) Shall allow any person who acts as both a representative of the prosecutor and a witness in the hearing to remain in the hearing; and

(5) May, on its own motion, exclude any witness from the hearing.

(e) The prosecutor may make an opening statement. After the prosecutor has had the opportunity to make an opening statement, the licensee may make an opening statement. The regulatory body or hearing panel or officer may limit equally the time of the opening statement of each party.

(f) The prosecutor may present his case by presenting evidence and calling witnesses in the following manner:

(1) The witness must be sworn in.

(2) The prosecutor may directly examine the witness.

(3) The licensee may cross-examine the witness.

(4) If requested, the prosecutor may question the witness on redirect examination.

(5) If requested, the licensee may question the witness on recross-examination.

(g) After the prosecutor has had the opportunity to present his case, the licensee may present his case by presenting evidence and calling witnesses in the following manner:

(1) The witness must be sworn in.

- (2) The licensee may directly examine the witness.*
- (3) The prosecutor may cross-examine the witness.*
- (4) If requested, the licensee may question the witness on redirect examination.*
- (5) If requested, the prosecutor may question the witness on recross-examination.*
- (h) A member of the regulatory body, a member of the hearing panel or the hearing officer may question a witness at any time during the hearing. If a witness is questioned by a member of the regulatory body, a member of the hearing panel or the hearing officer, the party who called the witness may request permission to ask further questions, limited to the area addressed by the member or hearing officer. When that party has asked those questions, the other party may request permission to ask further questions, limited to the area addressed by the member or hearing officer.*
- (i) After the prosecutor and licensee have presented their cases, the regulatory body or hearing panel or officer may allow the prosecutor and licensee to call rebuttal witnesses. If the prosecutor or licensee, or both, call one or more rebuttal witnesses, each rebuttal witness must be sworn in and questioned in the same manner as provided in paragraph (f) or (g), as appropriate.*
- (j) The prosecutor may make a closing argument. After the prosecutor has had the opportunity to make a closing argument, the licensee may make a closing argument. The regulatory body or hearing panel or officer may limit equally the time of the closing argument of each party. If the licensee makes a closing argument, the prosecutor may make a final closing argument. The regulatory body or hearing panel or officer may limit the time of the final closing argument.*

(k) If allowed by the regulatory body or hearing panel or officer, either party may recommend specific disciplinary action to the regulatory body or hearing panel or officer at the appropriate time.

(l) After the close of the hearing, the regulatory body or hearing panel or officer shall deliberate and reach a decision. Not later than 60 days after the close of the hearing:

(1) If the hearing was conducted by the hearing panel or officer, the hearing panel or officer shall prepare written findings and recommendations and serve the findings and recommendations on the parties and the regulatory body for its review.

(2) If the hearing was conducted by the regulatory body, the regulatory body shall prepare a final decision in the manner provided in NRS 233B.125.

2. The regulatory body or hearing panel or officer may deviate from the order of the hearing set forth in subsection 1 if the regulatory body or hearing panel or officer:

(a) Upon a showing of good cause, deems it appropriate; or

(b) Deems it necessary to expedite or ensure the fairness of the hearing.

Sec. 24. 1. After the close of the hearing, a party may file only the following motions:

(a) A motion requesting a rehearing.

(b) A motion requesting reconsideration of the findings and recommendations of the hearing panel or officer or the final decision of the regulatory body.

(c) A motion requesting that the final decision of the regulatory body be vacated or modified.

(d) With leave of the regulatory body or hearing panel or officer, any other motion requesting appropriate action or relief after the close of the hearing.

2. A motion requesting a rehearing or reconsideration must be filed with:

(a) The hearing panel or officer not later than 15 days after the date of service of the findings and recommendations of the hearing panel or officer.

(b) The regulatory body not later than 15 days after the date of service of the final decision of the regulatory body.

3. A party who opposes the motion may file a response to the motion not later than 7 days after the date of service of the motion.

4. The regulatory body may authorize the president or chairman of the regulatory body to rule on the motion. The hearing panel may authorize the chairman or presiding officer of the hearing panel to rule on the motion.

5. A motion requesting a rehearing or reconsideration may be based only on one of the following grounds:

(a) Newly discovered or available evidence.

(b) Error in the hearing or in the findings and recommendations or the decision that would be grounds for reversal of the findings and recommendations or the decision.

(c) The need in the public interest for further consideration of the issues or evidence, or both.

6. The regulatory body or hearing panel or officer shall enter an order ruling on the motion requesting a rehearing or reconsideration not later than 25 days after the date on which the motion is filed. A copy of the order must be served on each party. The regulatory body or hearing panel or officer may:

(a) Deny the motion;

(b) Order a rehearing or partial rehearing;

(c) Order reconsideration of the findings and recommendations or the decision; or

(d) Direct other proceedings as the regulatory body or hearing panel or officer deems appropriate.

7. If the regulatory body or hearing panel or officer orders a rehearing, the rehearing must be confined to the issues upon which the rehearing was ordered.

Sec. 25. 1. Except as otherwise provided in the Constitution of this State, a party may not seek any type of judicial intervention or review of a contested case until after the contested case results in a final decision of the regulatory body.

2. Except as otherwise provided in this section, a party may seek judicial review of a final decision of the regulatory body in accordance with the provisions of chapter 233B of NRS that apply to a contested case.

3. Notwithstanding the provisions of subsection 1 of NRS 233B.131 regarding transmittal of the record of the proceeding under judicial review:

(a) The party filing the petition for judicial review shall provide an original or certified copy of the transcript of the hearing to the reviewing court; and

(b) The regulatory body shall provide an original or certified copy of the remainder of the record of the proceeding under review to the reviewing court.

Sec. 26. 1. If a regulatory body revokes the license of a person in a contested case pursuant to this chapter, the regulatory body shall, in the final decision of the regulatory body ordering the revocation, prescribe a period during which the person may not apply for reinstatement of the license. The period must not be less than 1 year and not more than 10 years.

2. In addition to any other requirements set forth in the applicable occupational licensing chapter, if a person applies for reinstatement of a license that has been revoked in a contested case pursuant to this chapter, the person shall:

- (a) Submit an application on a form supplied by the regulatory body.*
- (b) Satisfy all the current requirements for the issuance of an initial license.*
- (c) Attest that, in this State or any other jurisdiction:*

(1) The person has not, during the period of revocation, violated any state or federal law governing the practice of the licensed occupation or profession or any related occupation or profession, and no criminal or civil action involving such a violation is pending against the person; and

(2) No other regulatory body having jurisdiction over the practice of the licensed occupation or profession or any related occupation or profession has, during the period of revocation, taken disciplinary action against the person, and no such disciplinary action is pending against the person.

(d) Satisfy any additional requirements for reinstatement of the license prescribed by the regulatory body.

3. The regulatory body shall consider each application for reinstatement of a license submitted pursuant to this section. In determining whether to reinstate the license, the regulatory body shall consider the following criteria:

- (a) The severity of the act resulting in the revocation of the license.*
- (b) The conduct of the person after the revocation of the license.*
- (c) The amount of time elapsed since the revocation of the license.*

(d) The veracity of the attestations made by the person pursuant to subsection 2.

(e) The degree of compliance by the person with any additional requirements for reinstatement of the license prescribed by the regulatory body.

(f) The degree of rehabilitation demonstrated by the person.

4. If the regulatory body reinstates the license, the regulatory body may place any conditions, limitations or restrictions on the license as it deems necessary.

5. The regulatory body may deny reinstatement of the license if the person fails to comply with any provisions of this section.

6. The regulatory body's denial of reinstatement of the license is not a contested case for the purposes of judicial review.

Secs. 27-41. (Deleted by amendment.)

Sec. 41.5. NRS 622.060 is hereby amended to read as follows:

622.060 "Regulatory body" means:

1. Any *state* agency, board or commission which has the authority to regulate an occupation or profession pursuant to this title; and

2. Any officer of ~~an~~ *a state* agency, board or commission which has the authority to regulate an occupation or profession pursuant to this title.”.

Amend sec. 42, page 19, line 5, by deleting “subsection 1” and inserting:

~~“[subsection 1]~~ *this section*”.

Amend sec. 42, page 19, by deleting lines 10 through 20 and inserting:

“3. ~~[The complaint or other document filed by]~~ *Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and*

all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action *pursuant to sections 2 to 41, inclusive, of this act* and all other documents and information considered by the Board when determining whether to impose discipline are public records.

~~{4.}~~ **5.** The Board may report to other related professional boards and organizations an applicant's score on an examination given by the Board.

6. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend sec. 43, page 20, by deleting lines 11 and 12 and inserting:
“conducted by the Board.”.

Amend the bill as a whole by deleting sec. 49 and adding:

“Sec. 49. (Deleted by amendment.)”.

Amend sec. 52, page 25, by deleting lines 10 and 11 and inserting:
“by the Board.”.

Amend the bill as a whole by deleting sec. 53 and adding a new section designated sec. 53, following sec. 52, to read as follows:

“Sec. 53. NRS 623A.305 is hereby amended to read as follows:

623A.305 1. When a complaint is filed with the Executive Director of the Board, it must be considered by the President of the Board or a member of the Board designated by him. If it appears to the President or the person designated by him that further proceedings are warranted, he shall report the results of his investigation together with his recommendation to the Board in a manner which does not violate the right of the person charged in the complaint to due process in any later hearing on the complaint.

2. The Board shall promptly make a determination with respect to each complaint reported to it by the President or a person designated by him and shall dismiss the complaint or ~~cause written notice of the charges in the complaint and the date fixed for the hearing to be served upon the person.~~ ***proceed with disciplinary action pursuant to sections 2 to 41, inclusive, of this act.***”.

Amend sec. 55, page 26, by deleting line 21 and inserting:

“2. ~~[A record specified in subsection 1]~~ ***The records described in this section*** may be disclosed.”.

Amend sec. 55, page 26, by deleting lines 39 through 42 and inserting:

“4. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

5. The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all other documents and information considered by the Board when determining whether to impose discipline are public records.

6. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.*”.

Amend the bill as a whole by deleting sections 57 through 74 and adding new sections designated sections 57 through 74, following sec. 56, to read as follows:

“Sec. 57. NRS 625A.180 is hereby amended to read as follows:

625A.180 1. If the Board finds after ***notice and*** a hearing ~~as required by law~~ ***as required by law***, or after providing an opportunity for ***such*** a hearing, that disciplinary action is necessary, it may by order:

(a) Place the environmental health specialist on probation for a specified period or until further order of the Board;

(b) Administer a public reprimand; or

(c) Suspend or revoke his certificate.

2. If the order places an environmental health specialist on probation, the Board may impose such limitations or conditions upon his professional activities as it finds consistent to protect the public health.

3. The Board shall not administer a private reprimand.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 625A.185 is hereby amended to read as follows:

625A.185 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information

compiled as a result of an investigation conducted to determine whether to initiate disciplinary action *against a person* are confidential ~~[-]~~, *unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

2. The ~~[complaint or other document filed by]~~ *charging documents filed with* the Board to initiate disciplinary action *pursuant to sections 2 to 41, inclusive, of this act* and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.*

Sec. 59. NRS 625A.190 is hereby amended to read as follows:

625A.190 1. Upon denial of an application for registration, ~~[or renewal of a certificate, or other disciplinary action,]~~ the Board shall give the person written notice of its decision mailed to him at his last known address by certified mail, return receipt requested. The notice must:

- (a) State the reason for the denial ; ~~[or disciplinary action,]~~ and
- (b) Inform the person that he has the right to a hearing before the Board.

2. A written request for a hearing must be filed with the Board within 30 days after the notice is mailed. If a hearing is requested, the Board shall set a time and place for a formal hearing and notify the person of the time and place set for the hearing. The Board shall hold the hearing at the time and place designated in the notice.

Secs. 60-74. (Deleted by amendment.)”.

Amend sec. 75, page 36, by deleting lines 17 through 19 and inserting:

“4. Investigate ~~[,]~~ *and, if required*, hear and decide *in a manner consistent with the provisions of sections 2 to 41, inclusive, of this act* all complaints made against any homeopathic”.

Amend sec. 75, page 36, by deleting lines 26 and 27 and inserting:

“complaint to the other licensing board.”.

Amend the bill as a whole by deleting sections 80 and 81 and adding:

“**Secs. 80 and 81.** (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 91 and adding a new section designated sec. 91, following sec. 90, to read as follows:

“**Sec. 91.** NRS 630A.555 is hereby amended to read as follows:

630A.555 1. Except as otherwise provided in this section, ~~[any records or information obtained during]~~ *a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation [by the Board and any record of the investigation] conducted to determine whether to initiate disciplinary action against a person* are confidential ~~[,]~~, *unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

2. The ~~[complaint or other document filed by]~~ *charging documents filed with* the Board to initiate disciplinary action *pursuant to sections 2 to 41, inclusive, of this act* and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The ~~[Board may provide any record or information described in subsection 1 to]~~ *provisions of this section do not prohibit the Board from communicating or cooperating with or providing*

*any documents or other information to any other licensing board or any other agency ~~[,] that is investigating a person~~, including , **without limitation**, a law enforcement agency . ~~[, which is investigating a person who is licensed pursuant to this chapter.]~~”.*

Amend sec. 93, page 44, by deleting lines 14 through 17 and inserting:

“2. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

3. The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all other documents and information considered by the Board when determining whether to impose discipline are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend the bill as a whole by deleting sections 94 and 95 and adding:

“Secs. 94 and 95. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sections 97 and 98 and adding:

“Secs. 97 and 98. (Deleted by amendment.)”.

Amend sec. 99, page 46, by deleting line 28 and inserting:

“designated to review a complaint pursuant to NRS 633.541 has”.

Amend the bill as a whole by deleting sec. 110 and adding:

“**Sec. 110.** (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 113 and adding:

“**Sec. 113.** (Deleted by amendment.)”.

Amend sec. 114, page 51, by deleting lines 6 through 8 and inserting:

“634.170 1. When a complaint is filed with the Executive Director of the Board, it must be considered by the President or a member of the Board designated by him. ~~[If, from the complaint or]~~”.

Amend sec. 114, page 51, by deleting line 13 and inserting:

“**2. Notwithstanding the provisions of sections 2 to 41, inclusive, of**”.

Amend sec. 114, page 51, by deleting lines 18 through 22 and inserting:

“~~[2. If the]~~

3. Except as otherwise provided in subsection 2, if a complaint is not deemed by the President or designated member of the Board to be of sufficient import or sufficiently well founded to merit bringing proceedings against the person charged, the complaint must be held in abeyance and discussed at the next meeting of the Board.”.

Amend sec. 118, page 53, by deleting lines 17 through 20 and inserting:

“**4. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.**

5. The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all other documents and information considered by the Board when determining whether to impose discipline are public records.

6. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend sec. 121, pages 53 and 54, by deleting lines 43 through 45 on page 53 and lines 1 through 12 on page 54, and inserting:

“634A.185 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of ~~the~~ **an** investigation conducted to determine whether to initiate disciplinary action **against a person** are confidential ~~[-]~~, **unless the person submits a written statement to the Board requesting that such documents and information be made public records.**

2. The ~~[complaint or other document filed by]~~ **charging documents filed with** the Board to initiate disciplinary action **pursuant to sections 2 to 41, inclusive, of this act** and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or

any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend sec. 125, page 55, by deleting lines 30 through 44 and inserting:

“635.158 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of ~~the~~ *an* investigation conducted to determine whether to initiate disciplinary action *against a person* are confidential ~~[-]~~, *unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

2. The ~~[complaint or other document filed by]~~ *charging documents filed with* the Board to initiate disciplinary action *pursuant to sections 2 to 41, inclusive, of this act* and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend the bill as a whole by deleting sections 126 through 134 and adding:

“Secs. 126-134. (Deleted by amendment.)”.

Amend sec. 136, page 59, by deleting lines 37 through 43 and inserting:

“3. ~~[This section does]~~ *Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

4. *The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all documents and information considered by the Board when determining whether to impose discipline are public records.*

5. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency ~~for any agency which~~ that is investigating a ~~licensee,~~ person, including , without limitation, a”.*

Amend the bill as a whole by deleting sec. 143 and adding:

“Sec. 143. (Deleted by amendment.)”.

Amend sec. 147, pages 64 and 65, by deleting lines 39 through 45 on page 64 and lines 1 through 5 on page 65, and inserting:

“637A.315 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of ~~the~~ *an* investigation conducted to determine whether to initiate disciplinary action *against a person* are confidential ~~[]~~, *unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

2. The ~~[complaint or other document filed by]~~ ***charging documents filed with*** the Board to initiate disciplinary action ***pursuant to sections 2 to 41, inclusive, of this act*** and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. ***The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.***”.

Amend the bill as a whole by deleting sec. 149 and adding:

“**Sec. 149.** (Deleted by amendment.)”.

Amend sec. 152, page 66, by deleting lines 20 through 31 and inserting:

“637B.288 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of ~~[the]~~ ***an*** investigation conducted to determine whether to initiate disciplinary action ***against a person*** are confidential ~~[]~~, ***unless the person submits a written statement to the Board requesting that such documents and information be made public records.***

2. The ~~[complaint or other document filed by]~~ ***charging documents filed with*** the Board to initiate disciplinary action ***pursuant to sections 2 to 41, inclusive, of this act*** and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. ***The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or***

any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend sec. 154, page 67, by deleting lines 16 through 19 and inserting:

“3. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all other documents and information considered by the Board when determining whether to impose discipline are public records.

5. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend the bill as a whole by deleting sections 156 and 157 and adding:

“Secs. 156 and 157. (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 159 and adding a new section designated sec. 159, following sec. 158, to read as follows:

“Sec. 159. NRS 638.1429 is hereby amended to read as follows:

638.1429 1. After the investigation of the complaint is completed, the member of the Board who conducted the investigation shall submit to the Board a written report of his findings and recommendations concerning the disposition of the complaint.

2. If the Board determines that there is not sufficient evidence to believe that a licensee has committed an act which constitutes a cause for disciplinary action, the Board shall dismiss the complaint and send a written notice to the person who filed the complaint and the licensee who was the subject of the investigation that the complaint was dismissed.

3. If the Board determines that there is sufficient evidence to believe that a licensee has committed an act which constitutes a ground for disciplinary action, the Board may enter into a settlement agreement with the licensee. The settlement agreement must be signed by the licensee and the President of the Board. The Board shall send a written notice of the settlement to the person who filed the complaint against the licensee. The notice must include a copy of the settlement agreement. The complaint and the settlement agreement are public records.

~~[4. If the Board does not enter into a settlement agreement with the licensee, the Board shall:~~

~~— (a) Cause an accusation to be filed against the licensee. The accusation must:~~

~~— (1) Include a written statement of the charges alleged;~~

~~— (2) Set forth in ordinary and concise language the acts or omissions with which the licensee is charged;~~

~~— (3) Specify the statutes and regulations which the licensee is alleged to have violated; and~~

~~— (4) Be signed by the President of the Board.~~

~~—(b) Fix a time and place for a hearing and so notify the licensee at least 30 days before the date of the hearing. The notice must include a copy of the accusation and any disciplinary action the Board may impose pursuant to NRS 638.147.]”.~~

Amend sec. 170, page 73, by deleting lines 14 through 30 and inserting:

“640.075 1. Except as otherwise provided in this section, ~~[any records or information obtained during the course]~~ ***a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result*** of an investigation ~~[by the Board and any record of the]~~ ***conducted to determine whether to initiate disciplinary action against a person*** are confidential ~~[.]~~, ***unless the person submits a written statement to the Board requesting that such documents and information be made public records.***

2. The ~~[complaint or other document filed by]~~ ***charging documents filed with*** the Board to initiate disciplinary action ***pursuant to sections 2 to 41, inclusive, of this act*** and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. ~~[This section does not prevent or]~~ ***The provisions of this section do not*** prohibit the Board from communicating or cooperating with ~~[another]~~ ***or providing any documents or other information to any other*** licensing board or any ***other*** agency ~~[which]~~ ***that*** is investigating a ~~[licensee,]~~ ***a person***, including, ***without limitation***, a law enforcement agency.

4. An order that imposes discipline and the finding of fact and”.

Amend sec. 172, pages 74 and 75, by deleting lines 31 through 45 on page 74 and line 1 on page 75, and inserting:

“640.161 1. A complaint against any person who has been licensed pursuant to this chapter may be initiated by the Board or may be filed with the Board by any member or agent of the Board or any aggrieved person.

2. The complaint must allege one or more of the grounds enumerated in NRS 640.160 and must contain a statement of facts showing that a provision of this chapter or the Board’s regulations has been violated. The complaint must be sufficiently detailed to enable the respondent to understand the allegations.

3. The complaint must be in writing and be signed and verified by the person filing it. The original complaint and two copies must be filed with the Board.

4. The Board shall review each complaint. If a complaint shows a substantial violation of a provision of this chapter or the Board’s regulations, the Board shall proceed with a hearing on the complaint ~~[pursuant to the provisions of sections 2 to 41,~~”.

Amend the bill as a whole by deleting sec. 174 and adding:

“**Sec. 174.** (Deleted by amendment.)”.

Amend sec. 177, page 77, by deleting lines 5 through 14 and inserting:

“640A.220 1. Except as otherwise provided in this section, ~~[any records or information obtained during the course]~~ ***a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result*** of an investigation ~~[by the Board]~~ ***conducted to determine whether to initiate disciplinary action against a person*** are confidential ~~[,]~~ ***unless the person submits a written statement to the Board requesting that such documents and information be made public records.***

2. The ~~[complaint or other document filed by]~~ *charging documents filed with* the Board to initiate disciplinary action *pursuant to sections 2 to 41, inclusive, of this act* and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.*

Amend sec. 179, page 78, after line 42, by inserting:

“3. The Board shall not issue a private reprimand to a licensee.

4. *An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.”.*

Amend sec. 181, page 79, line 36, by deleting “[1.—Any” and inserting “1. ~~[Any]~~”.

Amend sec. 181, pages 79 and 80, by deleting line 44 on page 79 and lines 1 through 7 on page 80 and inserting:

~~“records.”~~ *Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

2. *The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all documents and information considered by the Board when determining whether to impose discipline are public records.*

3. The provisions of this section do not prohibit the Board from *communicating or* cooperating with ~~another~~ *or providing any documents or other information to any other* licensing board or any *other* agency that is investigating a ~~licensee,~~ *person*, including, without limitation, a law enforcement agency.”.

Amend sec. 182, page 80, by deleting lines 23 through 28 and inserting:

“3. The Board may keep the personnel records of applicants confidential.

4. *Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

5. *The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all other documents and information considered by the Board when determining whether to impose discipline are public records.*

6. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.*

Amend sec. 185, page 81, by deleting lines 33 and 34 and inserting:

“641.240 1. If the Board, a panel of its members or a hearing officer appointed by the Board finds ~~the~~ *a* person”.

Amend the bill as a whole by deleting sec. 187 and adding:

“**Sec. 187.** (Deleted by amendment.)”.

Amend sec. 192, page 84, by deleting lines 5 and 6 and inserting:

“**41, inclusive, of this act, in any *disciplinary* proceeding** before the Board, a panel of its members or a hearing officer:”.

Amend sec. 193, page 84, by deleting lines 20 and 21 and inserting:

“**1.** Pending *disciplinary* proceedings ~~[for disciplinary action by]~~ *before* the Board, a panel of its members or a hearing officer, the court”.

Amend sec. 193, page 84, by deleting lines 29 and 30 and inserting:

“**2.** The *disciplinary* proceedings before the Board, a panel of its members or a hearing officer must be instituted and determined”.

Amend sec. 195, page 85, by deleting lines 4 and 5 and inserting:

“**↪** by an order of the Board, a panel of its members or a hearing officer may apply to the Board after 1 year for removal of the”.

Amend the bill as a whole by deleting sections 196 through 200 and adding:

“**Secs. 196-200.** (Deleted by amendment.)”.

Amend sec. 202, pages 87 and 88, by deleting lines 39 through 44 on page 87 and lines 1 through 11 on page 88, and inserting:

“**2.** ~~[Any records or information received by the Board are public records if:~~

~~—(a) The records or information were obtained by the Board during the course of an investigation, the investigation is completed and disciplinary action is imposed by the Board as a result of the investigation; or~~

~~—(b) The licensee or the applicant for a license submits a written request to the Board asking that the information or records be made public records.~~

~~—3. This section does}~~ *Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

3. The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all documents and information considered by the Board when determining whether to impose discipline are public records.

4. The provisions of this section do not prohibit the Board from ~~[providing any such records or information to another]~~ *communicating or cooperating with or providing any documents or other information to any other* licensing board or any *other* agency ~~[that is investigating a person,~~ including , *without limitation*, a law enforcement agency . ~~[which is investigating a person licensed pursuant to this chapter.]”~~.

Amend the bill as a whole by deleting sec. 205 and adding:

“**Sec. 205.** (Deleted by amendment.)”.

Amend sec. 211, page 92, by deleting lines 18 through 21 and inserting:

“may, file a written complaint specifying the relevant facts with the Board. The complaint must specifically charge one or more of the grounds for initiating disciplinary action.

2. ~~“As soon as practicable after the filing of the complaint, the”~~.

Amend sec. 211, page 92, by deleting lines 32 through 35 and inserting:

“~~5.]~~ If, after notice and a hearing ~~[.]~~ **as required by law**, the Board determines that ~~the] a~~ licensed or certified counselor or certified”.

Amend sec. 212, page 93, by deleting lines 25 through 43 and inserting:

“641C.760 1. Except as otherwise provided in this section, ~~[any records or information obtained during the course of an investigation by the Board and any record of the]~~ **a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person** are confidential ~~[.]~~, **unless the person submits a written statement to the Board requesting that such documents and information be made public records.**

2. The ~~[complaint or other document filed by]~~ **charging documents filed with** the Board to initiate disciplinary action **pursuant to sections 2 to 41, inclusive, of this act** and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. ~~[If the Board receives a request or subpoena for records or information obtained during an investigation by the Board and the records or information is not made public pursuant to subsection 2, the Board shall notify the person regarding whom the investigation was made of the request or subpoena. If that person does not consent in writing to the release of the records or information, the~~

~~Board may release the records or information only upon the order of a court of competent jurisdiction.]~~ ***The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.***

Amend sec. 216, page 95, by deleting lines 19 through 29 and inserting:

“642.500 1. A petition for the revocation or suspension of a permit to operate a funeral establishment, funeral director’s license or license to conduct direct cremations or immediate burials may be filed by the Attorney General or by the district attorney of the county in which the funeral establishment exists or the licensee resides or has practiced, or by any person residing in this State.

2. The petition must be filed with the Board and state the charges against the licensee with reasonable definiteness.

~~[3.—Upon the presentation of the petition to the Board, the Board”.~~

Amend sec. 218, page 96, by deleting lines 13 through 24 and inserting:

“642.524 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action ***against a person*** are confidential ~~[.]~~, ***unless the person submits a written statement to the Board requesting that such documents and information be made public records.***

2. The ~~[complaint or other document filed by]~~ ***charging documents filed with*** the Board to initiate disciplinary action ***pursuant to sections 2 to 41, inclusive, of this act*** and all documents and

information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend sec. 226, pages 98 and 99, by deleting lines 35 through 44 on page 98 and lines 1 and 2 on page 99, and inserting:

“643.189 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action **against a person** are confidential ~~[]~~, **unless the person submits a written statement to the Board requesting that such documents and information be made public records.**

2. The ~~[complaint or other document filed by]~~ **charging document filed with** the Board to initiate disciplinary action **pursuant to sections 2 to 41, inclusive, of this act** and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend the bill as a whole by deleting sec. 227 and adding:

“**Sec. 227.** (Deleted by amendment.)”.

Amend the bill as a whole by deleting sec. 230 and adding new sections designated sections 229.5 through 230.6, following sec. 229, to read as follows:

“**Sec. 229.5.** NRS 644.446 is hereby amended to read as follows:

644.446 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action *against a person* are confidential ~~[-]~~, *unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

2. The ~~[complaint or other document filed by]~~ *charging document filed with* the Board to initiate disciplinary action *pursuant to sections 2 to 41, inclusive, of this act* and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.*

Sec. 230. NRS 648.033 is hereby amended to read as follows:

648.033 1. The Board shall maintain a public record of:

- (a) The business it transacts at its regular and special meetings; and
- (b) The applications received by it together with the record of the disposition of each application.

2. Information obtained by the Board from other than public sources concerning the:

(a) Financial condition; or

(b) Criminal record,

↪ of an applicant or a licensee is confidential and may be revealed only to the extent necessary for the proper administration of the provisions of this chapter.

3. The Board may release information described in subsection 2 to an agency of the Federal Government, of a state or of a political subdivision of this State.

4. The Board shall adopt by regulation a procedure for notifying the applicant or licensee of the release of confidential information pursuant to subsections 2 and 3. The Board shall release information described in subsection 2 concerning an applicant or licensee to the applicant or licensee upon request.

5. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

6. The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all other documents and information considered by the Board when determining whether to impose discipline are public records.

7. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 230.3. NRS 648.040 is hereby amended to read as follows:

648.040 1. Except as otherwise provided in subsection 6, all money received pursuant to the provisions of this chapter must be deposited in the State Treasury for credit to the Attorney General's Special Fund and must be used by the Board for the administration of this chapter and to pay the expenses and salary of members, agents and employees of the Board.

2. Any amount remaining in the Fund at the end of a fiscal year must be carried forward into the next fiscal year.

3. The Board through majority vote controls exclusively the expenditures from the Fund. The Board may not make expenditures or incur liabilities in a total amount greater than the amount of money actually available in the Fund.

4. Except as otherwise provided in subsection 6, the money in this Fund may be used to:

(a) Pay the expenses of the Board in connection with the investigation of the background of an applicant;

(b) Finance a substantive investigation of a licensee or of unlicensed activity; and

(c) Pay the operational and administrative expenses of the Board and its Secretary,

↪ and for such other expenses as the Board deems appropriate to regulate the persons subject to its supervision.

5. ~~The~~ ***In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act,*** ***the*** Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in the State Treasury for credit to the Attorney General's Special Fund.

6. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 5, the Board shall deposit the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund. In such a case, the Board may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 230.6. NRS 648.175 is hereby amended to read as follows:

648.175 1. If, after *notice and* a hearing ~~is~~ *as required by law*, the Board finds that cause exists, the Board may:

- (a) Revoke the license of the licensee.
 - (b) Suspend the license of the licensee for not more than 1 year for each violation.
 - (c) Fine the licensee not more than \$5,000 for each violation.
 - (d) Suspend an order authorized by this section upon such terms and conditions as the Board considers appropriate.
 - (e) Place the licensee on probation for not more than 2 years upon such terms and conditions as the Board considers appropriate.
 - (f) Publicly reprimand the licensee.
 - (g) Affirm, modify or vacate the penalty imposed by a notice of violation.
2. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.”.

Amend sec. 231, page 102, by deleting lines 1 through 6 and inserting:

“2. ~~[All the]~~ *Except as otherwise provided in this section, all* records kept by the Board, not otherwise privileged or confidential, are public records.

3. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action pursuant to sections 2 to 41, inclusive, of this act and all other documents and information considered by the Board when determining whether to impose discipline are public records.

5. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.”.

Amend sec. 236, pages 103 and 104, by deleting lines 39 through 45 on page 103 and lines 1 through 8 on page 104, and inserting:

“656.105 1. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action **against a person** are confidential ~~[-]~~, **unless the person submits a written statement to the Board requesting that such documents and information be made public records.**

2. The ~~[complaint or other document filed by]~~ **charging documents filed with** the Board to initiate disciplinary action **pursuant to sections 2 to 41, inclusive, of this act** and all documents and

information considered by the Board when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. *The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.*”.

Amend the bill as a whole by deleting sec. 237 and adding:

“**Sec. 237.** (Deleted by amendment.)”.

Amend the bill as a whole by adding a new section designated sec. 238.5, following sec. 238, to read as follows:

“**Sec. 238.5.** NRS 656.280 is hereby amended to read as follows:

656.280 1. The Board may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts which if proven would constitute grounds for refusal, suspension or revocation as set forth in NRS 656.240 to 656.270, inclusive, investigate the actions of any person who applies for, or holds or represents that he holds a license or certificate. ~~[Such a person is in this section and in NRS 656.290 called the accused.]~~

2. The Board shall, before refusing to issue ~~[, suspending or revoking]~~ any license or certificate, notify the ~~[accused]~~ **applicant** in writing of ~~[any charges made.]~~ **the reasons for the refusal.** The notice must be served by delivery personally to the ~~[accused,]~~ **applicant** or by mailing by registered or certified mail to the last known place of business of the ~~[accused.]~~ **applicant.**

3. The time set in the notice must not be less than 10 nor more than 30 days after delivery or mailing.

4. The Board may continue the hearing from time to time.”.

Amend sec. 240, pages 105 and 106, by deleting lines 40 through 45 on page 105 and lines 1 through 3 on page 106, and inserting:

“**Sec. 240.** NRS 623.280, 623A.310, 623A.320, 623A.330, 623A.3535, 633.611, 634.193, 634.214, 637.087, 637.165, 637A.295, 637B.285, 638.088, 638.146, 638.1476, 638.1479, 640.165, 640.166, 640.167, 641.255, 641.275, 641.2755, 641.280, 641.300, 641.310, 641B.420, 641B.440, 641C.750, 644.445, 648.034, 648.178 and 654.115.”.

Amend the bill as a whole by deleting sec. 241 and adding:

“**Sec. 241.** (Deleted by amendment.)”.

Amend sec. 242, page 106, line 8, by deleting:

“complaint filed or”.

Amend sec. 243, page 106, by deleting lines 10 through 21 and inserting:

“**Sec. 243.** 1. This section and sections 1 to 203, inclusive, 205 to 234, inclusive, and 236 to 242, inclusive, of this act become effective on October 1, 2005.

2. Sections 203 and 234 of this act expire by limitation”.

Amend sec. 243, page 106, line 32, by deleting “74, 133,”.

Amend the bill as a whole by deleting the leadlines of repealed sections and inserting:

“

LEADLINES OF REPEALED SECTIONS

623.280 Revocation of certificate: Notice; report of findings.

623A.310 Hearing: Procedure; rights of defendant; decision of Board.

623A.320 Application for rehearing.

623A.330 Rehearing: Notice; procedure; decision of Board.

623A.3535 Confidentiality of records: Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records.

633.611 Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records; dissemination of records to other entities.

634.193 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; appeals.

634.214 Records: Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records.

637.087 Records: Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records.

637.165 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; appeals.

637A.295 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; appeals.

637B.285 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; appeals.

638.088 Records: Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records.

638.146 Right of person charged to hearing; continuation; reopening.

638.1476 Decision of hearing officer or panel final; appeal to Board.

638.1479 Licensee's statement after Board's order; consideration by Board.

640.165 Depositions; taking of evidence in another state.

640.166 Time for decision of Board.

640.167 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; appeals.

641.255 Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records.

641.275 Appointment of hearing officer or panel to conduct hearing or investigation; appeal to Board; action by Board.

641.2755 Rights of person named in complaint; notification of rights.

641.280 Conduct of hearing; rights of person named in complaint; continuance.

641.300 Rehearing: Time for application.

641.310 Rehearing: Notice; procedure; decision.

641B.420 Date of hearing; notice.

641B.440 Rehearing.

641C.750 Deposition of witnesses; taking of evidence in another jurisdiction.

644.445 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; appeals.

648.034 Records: Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records; communication and cooperation with other agencies.

648.178 Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; appeals.

654.115 Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records.”.

Amend the title of the bill by deleting the third through fifth lines and inserting:
“administer occupational licensing;”.