

SENATE BILL NO. 276—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 23, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Establishes uniform disciplinary process for certain regulatory bodies which administer occupational licensing. (BDR 54-98)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to regulatory bodies; establishing a uniform disciplinary process for certain regulatory bodies which administer occupational licensing; creating the Office of the Commissioner of Occupational Licensing and prescribing the Commissioner's powers and duties; revising certain provisions governing occupational licensing so they conform with the uniform disciplinary process; repealing certain provisions in the chapters governing occupational licensing so they conform with the uniform disciplinary process; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Title 54 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 41, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 13,*
6 *inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*



1 **Sec. 3.** *“Commissioner” means the Commissioner of*
2 *Occupational Licensing.*

3 **Sec. 4.** 1. *“Contested case” and “case” have the meaning*
4 *ascribed to “contested case” in NRS 233B.032.*

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

8 **Sec. 5.** *“Employee” includes, without limitation, a person*
9 *who has a contract to provide services as an independent*
10 *contractor.*

11 **Sec. 6.** *“Hearing officer” means a person who is appointed*
12 *pursuant to NRS 232.215 to serve as a hearing officer in the*
13 *Hearings Division.*

14 **Sec. 7.** *“Hearings Division” means the Hearings Division of*
15 *the Department of Administration as provided for in NRS 232.213.*

16 **Sec. 8.** *“License” means any license, certificate, registration,*
17 *permit or similar type of authorization issued by a regulatory body.*

18 **Sec. 9.** *“Licensee” means a person who holds any license,*
19 *certificate, registration, permit or similar type of authorization*
20 *issued by a regulatory body.*

21 **Sec. 10.** *“Member of a regulatory body” means a person who*
22 *is serving as a member or officer of a regulatory body.*

23 **Sec. 11.** *“Prosecutor” means:*

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

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

29 **Sec. 12.** *“Records” means any records, files, books,*
30 *documents, papers, information or data in any form.*

31 **Sec. 13.** 1. *“Regulatory body” means the following*
32 *regulatory bodies:*

33 (a) *The State Board of Architecture, Interior Design and*
34 *Residential Design created pursuant to chapter 623 of NRS.*

35 (b) *The State Board of Landscape Architecture created*
36 *pursuant to chapter 623A of NRS.*

37 (c) *The State Board of Professional Engineers and Land*
38 *Surveyors created pursuant to chapter 625 of NRS.*

39 (d) *The Nevada State Board of Accountancy created pursuant*
40 *to chapter 628 of NRS.*

41 (e) *The Board of Homeopathic Medical Examiners created*
42 *pursuant to chapter 630A of NRS.*

43 (f) *The State Board of Osteopathic Medicine created pursuant*
44 *to chapter 633 of NRS.*



1 (g) *The Chiropractic Physicians' Board of Nevada created*
2 *pursuant to chapter 634 of NRS.*

3 (h) *The State Board of Oriental Medicine created pursuant to*
4 *chapter 634A of NRS.*

5 (i) *The State Board of Podiatry created pursuant to chapter*
6 *635 of NRS.*

7 (j) *The Nevada State Board of Optometry created pursuant to*
8 *chapter 636 of NRS.*

9 (k) *The Board of Dispensing Opticians created pursuant to*
10 *chapter 637 of NRS.*

11 (l) *The Board of Hearing Aid Specialists created pursuant to*
12 *chapter 637A of NRS.*

13 (m) *The Board of Examiners for Audiology and Speech*
14 *Pathology created pursuant to chapter 637B of NRS.*

15 (n) *The Nevada State Board of Veterinary Medical Examiners*
16 *created pursuant to chapter 638 of NRS.*

17 (o) *The State Board of Physical Therapy Examiners created*
18 *pursuant to chapter 640 of NRS.*

19 (p) *The Board of Occupational Therapy created pursuant to*
20 *chapter 640A of NRS.*

21 (q) *The Board of Athletic Trainers created pursuant to chapter*
22 *640B of NRS.*

23 (r) *The Board of Psychological Examiners created pursuant to*
24 *chapter 641 of NRS.*

25 (s) *The Board of Examiners for Marriage and Family*
26 *Therapists created pursuant to chapter 641A of NRS.*

27 (t) *The Board of Examiners for Social Workers created*
28 *pursuant to chapter 641B of NRS.*

29 (u) *The Board of Examiners for Alcohol, Drug and Gambling*
30 *Counselors created pursuant to chapter 641C of NRS.*

31 (v) *The Nevada State Funeral Board created pursuant to*
32 *chapter 642 of NRS.*

33 (w) *The State Barbers' Health and Sanitation Board created*
34 *pursuant to chapter 643 of NRS.*

35 (x) *The State Board of Cosmetology created pursuant to*
36 *chapter 644 of NRS.*

37 (y) *The Nevada State Board of Examiners for Administrators*
38 *of Facilities for Long-Term Care created pursuant to chapter 654*
39 *of NRS.*

40 (z) *The Certified Court Reporters' Board of Nevada created*
41 *pursuant to chapter 656 of NRS.*

42 2. *The term does not include any other regulatory body,*
43 *unless the regulatory body makes an election pursuant to section*
44 *16 of this act to follow the provisions of this chapter.*



1 **Sec. 14.** 1. *The provisions of this chapter must be*
2 *interpreted so as to effectuate their general purpose to make*
3 *uniform among the regulatory bodies that are subject to the*
4 *provisions of this chapter the procedures used to investigate,*
5 *prosecute and take administrative action against a person who*
6 *violates any law or regulation governing occupational licensing.*

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

15 **Sec. 15.** 1. *The provisions of this chapter do not affect or*
16 *limit the authority of a regulatory body, at any stage of a contested*
17 *case, to make an informal disposition of the contested case*
18 *pursuant to subsection 5 of NRS 233B.121 or to enter into a*
19 *consent or settlement agreement approved by the regulatory body*
20 *pursuant to NRS 622.330.*

21 2. *The provisions of this chapter do not affect or limit the*
22 *authority of a regulatory body to designate a panel of its members*
23 *to hear a contested case pursuant to this chapter. If a regulatory*
24 *body designates a panel of its members to hear a contested case*
25 *pursuant to this chapter, the case must be heard by the panel in*
26 *the same manner as a case heard by a hearing officer.*

27 **Sec. 16.** 1. *Any regulatory body which has the authority to*
28 *regulate an occupation or profession pursuant to this title but*
29 *which is not expressly subject to the provisions of this chapter may*
30 *elect by regulation to follow the provisions of this chapter.*

31 2. *If any regulatory body makes such an election, the*
32 *regulatory body shall provide notice of its election to the*
33 *Commissioner.*

34 **Sec. 17.** 1. *The Office of the Commissioner of*
35 *Occupational Licensing is hereby created.*

36 2. *The Commissioner:*

37 (a) *Is appointed by and serves at the pleasure of the Governor.*

38 (b) *Is in the unclassified service of the State.*

39 (c) *Shall devote his entire time and attention to the business of*
40 *his office and shall not pursue any other business or occupation*
41 *or hold any other office of profit.*

42 **Sec. 18.** 1. *The Commissioner may employ investigators,*
43 *administrative support staff, consultants, experts or any other*
44 *personnel necessary to discharge the duties of his office.*



1 2. *The employees of the Office of the Commissioner, other*
2 *than independent contractors, are in the unclassified service of the*
3 *State.*

4 3. *The Commissioner may delegate to such employees the*
5 *exercise or discharge of any power, duty or function vested in or*
6 *imposed upon the Commissioner.*

7 **Sec. 19.** 1. *The Commissioner shall, within the limits of*
8 *legislative appropriations, maintain such offices and facilities in*
9 *this State as are necessary to discharge the duties of his office.*

10 2. *The offices of the Commissioner must be open for business*
11 *during the hours and on the days established pursuant to*
12 *NRS 281.110.*

13 **Sec. 20.** 1. *The Commissioner:*

14 (a) *Is responsible for the administration of the provisions of*
15 *this chapter;*

16 (b) *Has such other powers and duties as are provided by law;*
17 *and*

18 (c) *May adopt any regulations that he deems necessary to*
19 *carry out the provisions of this chapter.*

20 2. *On or before February 15 of each odd-numbered year, the*
21 *Commissioner shall submit to the Governor and to the Director of*
22 *the Legislative Counsel Bureau for transmittal to the next regular*
23 *session of the Legislature a written report compiling any*
24 *information relating to occupational licensing which the Governor*
25 *or any Legislator has requested or which the Commissioner deems*
26 *relevant or essential to further the objects of this chapter.*

27 **Sec. 21.** 1. *The Commissioner may issue subpoenas to*
28 *compel the attendance of witnesses and the production of any*
29 *records or other items which the Commissioner deems relevant to*
30 *any investigation or disciplinary proceeding conducted pursuant*
31 *to this chapter.*

32 2. *If any person fails to comply with a subpoena issued by the*
33 *Commissioner pursuant to this section within 20 days after the*
34 *date of service of the subpoena, the Commissioner may petition*
35 *the district court in the county where the investigation or*
36 *disciplinary proceeding is being conducted for an order of the*
37 *court compelling compliance with the subpoena.*

38 3. *Upon such a petition, the district court shall enter an order*
39 *directing the person subpoenaed to appear before the court at a*
40 *time and place to be fixed by the district court in its order, the time*
41 *to be not more than 20 days after the date of service of the order,*
42 *and show cause why he has not complied with the subpoena. A*
43 *certified copy of the order must be served upon the person*
44 *subpoenaed.*



1 4. *If it appears to the court that the subpoena was regularly*
2 *issued by the Commissioner pursuant to this section, the court*
3 *shall enter an order compelling compliance with the subpoena,*
4 *and upon failure to obey the order the person shall be dealt with*
5 *as for contempt of court.*

6 5. *The authority given to the Commissioner to issue*
7 *subpoenas pursuant to this section does not affect or limit the*
8 *authority given to any regulatory body, or any employee or*
9 *member of a regulatory body, to issue subpoenas pursuant to any*
10 *other statutory provision.*

11 **Sec. 22.** *1. A licensee or his employer shall, during regular*
12 *business hours, permit the Commissioner to access any premises*
13 *where the licensee is employed or practices his occupation or*
14 *profession, for the purpose of inspecting or copying any records or*
15 *other items which the Commissioner deems relevant to any*
16 *investigation or disciplinary proceeding conducted pursuant to*
17 *this chapter.*

18 2. *If the Commissioner is denied access to any premises or is*
19 *not permitted to inspect or copy any records or other items*
20 *pursuant to this section, the Commissioner may seek an*
21 *administrative warrant to obtain access to and search such*
22 *premises and to inspect, copy and seize such records or other*
23 *items.*

24 **Sec. 23.** *In any action or proceeding brought by or against*
25 *the Commissioner or a regulatory body pursuant to the provisions*
26 *of this chapter, the Commissioner or regulatory body must be*
27 *represented by:*

- 28 1. *The Attorney General or a deputy attorney general; or*
29 2. *If the Attorney General and his deputies are disqualified to*
30 *act in such a matter, an attorney appointed by the Attorney*
31 *General to provide such representation.*

32 **Sec. 24.** *1. A person who provides a governmental entity,*
33 *officer or employee with any information relating to an*
34 *investigation, disciplinary proceeding or civil or criminal*
35 *prosecution conducted pursuant to this chapter or any law or*
36 *regulation governing occupational licensing, is immune from any*
37 *civil liability for providing that information if the person acted in*
38 *good faith and without malicious intent.*

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

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

44 (b) *Communicating or cooperating with or disclosing any*
45 *documents or other information to any other governmental entity,*



1 *officer or employee conducting an investigation, disciplinary*
2 *proceeding or civil or criminal prosecution.*

3 **Sec. 25.** 1. *Except as otherwise provided in this section or*
4 *by specific statute, a complaint filed with the Commissioner or a*
5 *regulatory body, all documents and other information filed with*
6 *the complaint and all documents and other information compiled*
7 *as a result of an investigation conducted to determine whether to*
8 *initiate a disciplinary proceeding against a licensee are*
9 *confidential, unless the licensee submits a written statement to the*
10 *Commissioner or the regulatory body requesting that such*
11 *documents and information be made public records.*

12 2. *The charging document filed by the prosecutor to initiate a*
13 *disciplinary proceeding against a licensee and all documents and*
14 *other information considered in a hearing by a regulatory body or*
15 *hearing officer when determining whether to impose disciplinary*
16 *action against a licensee are public records.*

17 3. *The provisions of this section do not prohibit any*
18 *governmental entity, officer or employee from communicating or*
19 *cooperating with or disclosing any documents or other*
20 *information to any other governmental entity, officer or employee*
21 *conducting an investigation, disciplinary proceeding or civil or*
22 *criminal prosecution.*

23 **Sec. 26.** 1. *If a member of a regulatory body or an*
24 *employee acting on behalf of a regulatory body has reasonable*
25 *cause to believe that a licensee has violated any law or regulation*
26 *governing occupational licensing, the member or employee may*
27 *file a complaint with the Commissioner. The complaint must be*
28 *filed on a form approved by the Commissioner and must be signed*
29 *and verified by the member or employee.*

30 2. *If any other person has reasonable cause to believe that a*
31 *licensee has violated any law or regulation governing*
32 *occupational licensing, the person may file a complaint with the*
33 *Commissioner. Except as otherwise provided in this subsection,*
34 *the complaint must be filed on a form approved by the*
35 *Commissioner and must be signed and verified by the person*
36 *making the complaint. If any person files a written and verified*
37 *complaint with a regulatory body instead of the Commissioner, the*
38 *regulatory body shall forward the complaint to the Commissioner.*
39 *In his discretion, the Commissioner may accept and investigate a*
40 *complaint that is made anonymously.*

41 3. *After receiving a complaint that complies with this section,*
42 *the Commissioner shall make an initial determination regarding*
43 *the complaint, relying on the facts alleged in the complaint and*
44 *accepting those facts as true. Based on that standard:*



1 (a) If the facts alleged in the complaint state a potential
2 violation by the licensee of any law or regulation governing
3 occupational licensing, the Commissioner shall initiate an
4 investigation regarding the complaint.

5 (b) If the facts alleged in the complaint fail to state a potential
6 violation by the licensee of any law or regulation governing
7 occupational licensing, the Commissioner shall close the inquiry
8 regarding the complaint.

9 4. The Commissioner shall provide the regulatory body
10 governing the licensee and the person making the complaint, if
11 known, with written notice of the Commissioner's initial
12 determination regarding the complaint and the reasons for that
13 determination.

14 5. If the Commissioner, based on his initial determination
15 pursuant to this section, closes the inquiry regarding the
16 complaint, the person who made the complaint may file with the
17 Commissioner one or more subsequent complaints that provide
18 additional information regarding any potential violations alleged
19 in the original complaint. A subsequent complaint must be filed in
20 the same manner as an original complaint, and the Commissioner
21 shall make an initial determination regarding a subsequent
22 complaint in the same manner as an original complaint.

23 Sec. 27. 1. If the Commissioner, based on his initial
24 determination pursuant to section 26 of this act, initiates an
25 investigation regarding a complaint, the Commissioner shall:

26 (a) Assign the complaint to an investigator; and

27 (b) Serve written notice of the complaint and the investigation
28 on the licensee pursuant to subsection 3 of NRS 233B.127. The
29 licensee may file a reply to the complaint with the Commissioner
30 not more than 20 days after the date of service of the written
31 notice unless, for good cause shown, the Commissioner extends
32 the time to file a reply.

33 2. The investigator shall conduct a complete and objective
34 investigation regarding the allegations in the complaint.

35 3. Upon completion of the investigation, the investigator shall
36 prepare a confidential investigative report for submission to the
37 Commissioner.

38 Sec. 28. 1. After receiving an investigative report pursuant
39 to section 27 of this act, the Commissioner shall determine
40 whether the case against the licensee should be closed, should be
41 settled through a consent or settlement agreement or should be
42 prosecuted in a disciplinary proceeding pursuant to this chapter.
43 In making this determination, the Commissioner may consult with
44 attorneys, members of his staff and other experts and shall consult



1 *with the employees and the designated investigating member or*
2 *members of the regulatory body governing the licensee.*

3 *2. The Commissioner shall provide the regulatory body*
4 *governing the licensee, the person making the complaint, if*
5 *known, and the licensee with written notice of the Commissioner's*
6 *determination.*

7 *3. If the Commissioner determines that the case should be*
8 *closed, the Commissioner's determination becomes final and the*
9 *case shall be deemed to be closed 60 days after the date of service*
10 *of the written notice unless, before the end of the 60-day period,*
11 *the regulatory body rejects the Commissioner's determination. If*
12 *the regulatory body rejects the Commissioner's determination, the*
13 *case must be settled through a consent or settlement agreement*
14 *approved by the regulatory body pursuant to NRS 622.330 or the*
15 *case must be prosecuted in a disciplinary proceeding pursuant to*
16 *this chapter.*

17 *4. If the Commissioner determines that the case should be*
18 *settled through a consent or settlement agreement, the*
19 *Commissioner shall submit any proposed consent or settlement*
20 *agreement to the regulatory body for approval pursuant to NRS*
21 *622.330. If the regulatory body does not approve the proposed*
22 *consent or settlement agreement, the case must be prosecuted in a*
23 *disciplinary proceeding pursuant to this chapter.*

24 *5. If the Commissioner determines that the case should be*
25 *prosecuted in a disciplinary proceeding pursuant to this chapter or*
26 *if the case otherwise proceeds to such a disciplinary proceeding,*
27 *the Commissioner shall refer the case to the Attorney General for*
28 *prosecution.*

29 **Sec. 29.** *1. If a case is referred to the Attorney General for*
30 *prosecution, the prosecutor shall file a charging document with*
31 *the Commissioner and serve the licensee with the charging*
32 *document.*

33 *2. The Commissioner shall forward the charging document to*
34 *the regulatory body governing the licensee, and the regulatory*
35 *body shall determine whether the case will be heard by the*
36 *regulatory body or a hearing officer.*

37 *3. The regulatory body or hearing officer shall provide the*
38 *licensee with written notice of the disciplinary proceeding*
39 *pursuant to NRS 233B.121 and 241.034.*

40 *4. If the case is heard by a hearing officer, the hearing officer*
41 *shall follow the procedures established by the Department of*
42 *Administration and this chapter and any other applicable statutory*
43 *and regulatory provisions governing the case. The hearing officer*
44 *shall prepare a written decision and serve the decision on the*
45 *parties and the regulatory body for its review.*



1 5. A decision of the hearing officer does not become final
2 unless it is approved by the regulatory body after review. In
3 reviewing the decision of the hearing officer, the regulatory body
4 may:

5 (a) Approve the decision, with or without modification;

6 (b) Reject the decision and remand the decision to the hearing
7 officer;

8 (c) Reject the decision and order a hearing de novo before the
9 regulatory body; or

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

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

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

21 **Sec. 30. 1.** In any disciplinary proceeding against a
22 licensee pursuant to this chapter, the licensee may appear on his
23 own behalf or the licensee may be represented by:

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

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

29 2. An attorney representing a licensee shall:

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

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

34 3. An attorney may withdraw from his representation of a
35 licensee upon notice to the licensee and the regulatory body or
36 hearing officer. The notice must include the reason for the
37 requested withdrawal. The regulatory body or hearing officer may
38 deny the request if there may be an unreasonable delay in the
39 disciplinary proceeding or the substantial rights of the licensee
40 may be prejudiced.

41 4. If the regulatory body or hearing officer finds that an
42 attorney has violated any provision of this section, the regulatory
43 body or hearing officer may bar the attorney from participating in
44 the disciplinary proceeding or may impose such other sanctions as
45 the regulatory body or hearing officer deems appropriate.



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

3 **Sec. 31.** 1. After being served with the charging document,
4 the licensee may, but is not required to, file an answer to the
5 charging document. The licensee may file such an answer not
6 later than 20 days after the date of service of the charging
7 document.

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

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

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

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

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

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

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

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

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

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

35 **Sec. 32.** 1. At any time after being served with the charging
36 document, the licensee may file with the regulatory body or
37 hearing officer a written discovery request for a copy of all
38 documents and other evidence intended to be presented by the
39 prosecutor in support of the case and a list of proposed witnesses.

40 2. The investigative file for the case is not discoverable unless
41 the prosecutor intends to present materials from the investigative
42 file as evidence in support of the case. The investigative file for the
43 case includes all communications, records, affidavits or reports
44 regarding the case in the possession of the Commissioner or



1 *regulatory body, whether or not acquired through a subpoena*
2 *related to the investigation of the licensee.*

3 3. *A party may not serve any interrogatories on another party*
4 *or take any depositions relating to the disciplinary proceeding,*
5 *unless permitted by the regulations of the Commissioner or*
6 *regulatory body.*

7 **Sec. 33.** *A party shall not communicate either directly or*
8 *indirectly with any member of the regulatory body or the hearing*
9 *officer about any issue of fact or law related to the disciplinary*
10 *proceeding unless the communication:*

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

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

17 **Sec. 34.** 1. *If a party fails to appear at a scheduled hearing*
18 *and a continuance has not been scheduled or granted, any party*
19 *who is present at the hearing may make an offer of proof that the*
20 *absent party was given sufficient legal notice. Upon a*
21 *determination by the regulatory body or hearing officer that the*
22 *absent party was given sufficient legal notice, the regulatory body*
23 *or hearing officer may proceed to consider and dispose of the case*
24 *without the participation of the absent party.*

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

28 **Sec. 35.** 1. *Except as otherwise provided in this chapter or*
29 *as permitted by the regulatory body or hearing officer, to request a*
30 *ruling from the regulatory body or hearing officer on any issue of*
31 *law or procedure in a disciplinary proceeding, a party must file a*
32 *written motion with the regulatory body or hearing officer.*

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

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

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

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

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

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



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

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

12 4. The regulatory body or hearing officer shall rule on any
13 prehearing motion before or on the date of the hearing. The
14 regulatory body may authorize the president or chairman of the
15 regulatory body to rule on any prehearing motion before the date
16 of the hearing.

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

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

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

25 6. A party may file only the motions set forth in section 38 of
26 this act after the close of the hearing.

27 **Sec. 36. 1.** The prosecutor has the burden of proof in any
28 hearing pursuant to this chapter. The standard of proof in such a
29 hearing is substantial evidence.

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

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

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

43 **Sec. 37. 1.** Except as otherwise provided in this section, in
44 any hearing pursuant to this chapter, the hearing must proceed as
45 follows:



1 (a) *The president or chairman of the regulatory body or the*
2 *hearing officer shall call the hearing to order.*

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

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

8 (d) *The regulatory body or hearing officer:*

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

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

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

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

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

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

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

26 (1) *The witness must be sworn in.*

27 (2) *The prosecutor may directly examine the witness.*

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

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

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

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

36 (1) *The witness must be sworn in.*

37 (2) *The licensee may directly examine the witness.*

38 (3) *The prosecutor may cross-examine the witness.*

39 (4) *If requested, the licensee may question the witness on*
40 *redirect examination.*

41 (5) *If requested, the prosecutor may question the witness on*
42 *recross-examination.*

43 (h) *A member of the regulatory body or the hearing officer*
44 *may question a witness at any time during the hearing. If a*
45 *witness is questioned by a member of the regulatory body or the*



1 *hearing officer, the party who called the witness may request*
2 *permission to ask further questions, limited to the area addressed*
3 *by the member or hearing officer. When that party has asked those*
4 *questions, the other party may request permission to ask further*
5 *questions, limited to the area addressed by the member or hearing*
6 *officer.*

7 *(i) After the prosecutor and licensee have presented their*
8 *cases, the regulatory body or hearing officer may allow the*
9 *prosecutor and licensee to call rebuttal witnesses. If the prosecutor*
10 *or licensee, or both, call one or more rebuttal witnesses, each*
11 *rebuttal witness must be sworn in and questioned in the same*
12 *manner as provided in paragraph (f) or (g), as appropriate.*

13 *(j) The prosecutor may make a closing argument. After the*
14 *prosecutor has had the opportunity to make a closing argument,*
15 *the licensee may make a closing argument. The regulatory body or*
16 *hearing officer may limit equally the time of the closing argument*
17 *of each party. If the licensee makes a closing argument, the*
18 *prosecutor may make a final closing argument. The regulatory*
19 *body or hearing officer may limit the time of the final closing*
20 *argument.*

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

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

27 *(1) If the hearing was conducted by the hearing officer, the*
28 *hearing officer shall prepare a written decision and serve the*
29 *decision on the parties and the regulatory body for its review.*

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

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

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

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

39 **Sec. 38. 1. After the close of the hearing, a party may file**
40 **only the following motions:**

41 *(a) A motion requesting a rehearing.*

42 *(b) A motion requesting reconsideration of the decision of the*
43 *hearing officer or the final decision of the regulatory body.*

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



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

4 2. *A motion requesting a rehearing or reconsideration must*
5 *be filed with the regulatory body or hearing officer not later than*
6 *15 days after the date of service of the decision. A party who*
7 *opposes the motion may file a response to the motion not later*
8 *than 7 days after the date of service of the motion. The regulatory*
9 *body may authorize the president or chairman of the regulatory*
10 *body to rule on the motion.*

11 3. *A motion requesting a rehearing or reconsideration may be*
12 *based only on one of the following grounds:*

13 (a) *Newly discovered or available evidence.*

14 (b) *Error in the hearing or decision that would be grounds for*
15 *reversal of the decision.*

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

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

23 (a) *Deny the motion;*

24 (b) *Order a rehearing or partial rehearing;*

25 (c) *Order reconsideration of the decision; or*

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

28 5. *If the regulatory body or hearing officer orders a*
29 *rehearing, the rehearing must be confined to the issues upon*
30 *which the rehearing was ordered.*

31 **Sec. 39.** 1. *Except as otherwise provided in the Constitution*
32 *of this State, a party may not seek any type of judicial intervention*
33 *or review of a contested case until after the contested case results*
34 *in a final decision of the regulatory body.*

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

39 3. *Notwithstanding the provisions of subsection 1 of NRS*
40 *233B.131 regarding transmittal of the record of the proceeding*
41 *under judicial review:*

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



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

4 **Sec. 40.** 1. *If a regulatory body revokes the license of a*
5 *person in a disciplinary proceeding pursuant to this chapter, the*
6 *regulatory body shall, in the final decision of the regulatory body*
7 *ordering the revocation, prescribe a period during which the*
8 *person may not apply for reinstatement of the license. The period*
9 *must not be less than 1 year and not more than 10 years.*

10 2. *In addition to any other requirements set forth in the*
11 *applicable occupational licensing chapter, if a person applies for*
12 *reinstatement of a license that has been revoked in a disciplinary*
13 *proceeding pursuant to this chapter, the person shall:*

14 (a) *Submit an application on a form supplied by the regulatory*
15 *body.*

16 (b) *Satisfy all the current requirements for the issuance of an*
17 *initial license.*

18 (c) *Attest that, in this State or any other jurisdiction:*

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

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

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

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

35 (a) *The severity of the act resulting in the revocation of the*
36 *license.*

37 (b) *The conduct of the person after the revocation of the*
38 *license.*

39 (c) *The amount of time elapsed since the revocation of the*
40 *license.*

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

43 (e) *The degree of compliance by the person with any additional*
44 *requirements for reinstatement of the license prescribed by the*
45 *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.*

Sec. 41. 1. *In addition to any other remedy or penalty, if there is reasonable cause to believe that a person who does not hold a valid license from a regulatory body has engaged in any activity for which such a license is required, the Commissioner, after an investigation, may issue to the person a citation imposing an administrative fine pursuant to this section. The Commissioner may issue to the person a cease and desist notice before issuing such a citation.*

2. *If the Commissioner issues a citation to the person, the Commissioner shall:*

(a) *Issue a separate citation for each violation; and*

(b) *Impose, in each such citation, an administrative fine of:*

(1) *For the first violation, not more than \$1,000.*

(2) *For the second violation, not more than \$2,500.*

(3) *For the third and any subsequent violation, not more than \$5,000.*

3. *A citation issued pursuant to this section must:*

(a) *Be in writing;*

(b) *Be on a form prescribed by the Commissioner;*

(c) *Describe with particularity the nature of the violation; and*

(d) *Inform the person of the procedure to appeal the citation pursuant to subsection 4.*

4. *Any person issued a citation may file an appeal with the Commissioner not later than 30 days after the date of service of the citation. The Commissioner shall forward the appeal to the regulatory body having the authority to regulate the activity for which the person was cited. The regulatory body shall set a hearing on the appeal and serve notice on the parties pursuant to NRS 241.033. The Commissioner has the burden of proof to show that the citation was properly issued. The hearing on the appeal is a contested case for the purposes of judicial review.*

Sec. 42. NRS 623.131 is hereby amended to read as follows:

623.131 1. Except as otherwise provided in ~~subsections 2, 3 and 4,~~ *this section*, the records of the Board which relate to ~~the~~

~~—(a) An~~ *an* employee of the Board ~~the~~

~~—(b) An~~ *or an* examination given by the Board ~~the or~~



~~—(c) Complaints and charges filed with the Board and the material compiled as a result of its investigation of those complaints and charges;~~

~~—} are confidential.~~

2. The records described in subsection 1 may be disclosed, pursuant to procedures established by regulation of the Board, to a court or an agency of the Federal Government, any state, any political subdivision of this State ~~[.]~~ or any other related professional board or organization.

~~3. [The complaint or other document filed by the Board to initiate disciplinary action and all other documents and information considered by the Board when determining whether to impose discipline are public records.]~~

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

4. The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.

Sec. 43. NRS 623.270 is hereby amended to read as follows:

623.270 1. The Board may place the holder of any certificate of registration issued pursuant to the provisions of this chapter on probation, publicly reprimand him, fine him not more than \$10,000, suspend or revoke his license, impose the costs of investigation and prosecution upon him or take any combination of these disciplinary actions, ~~[if proof satisfactory to the Board is presented that:]~~ *for any of the following acts:*

(a) The certificate was obtained by fraud or concealment of a material fact.

(b) The holder of the certificate has been found guilty by the Board or by a court of justice of any fraud, deceit or concealment of a material fact in his professional practice, or has been convicted by a court of justice of a crime involving moral turpitude.

(c) The holder of the certificate has been found guilty by the Board of incompetency, negligence or gross negligence in:

(1) The practice of architecture or residential design; or

(2) His practice as a registered interior designer.

(d) The holder of a certificate has affixed his signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by him or in his office, or under his responsible control, or has permitted the use of his name to assist any person who is not a registered architect, registered interior designer or residential designer to evade any provision of this chapter.



(e) The holder of a certificate has aided or abetted any unauthorized person to practice:

(1) Architecture or residential design; or

(2) As a registered interior designer.

(f) The holder of the certificate has violated any law, regulation or code of ethics pertaining to:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer.

(g) The holder of a certificate has failed to comply with an order issued by the Board or has failed to cooperate with an investigation conducted ~~{by the Board.}~~ *pursuant to the provisions of this chapter or sections 2 to 41, inclusive, of this act.*

2. The conditions for probation imposed pursuant to the provisions of subsection 1 may include, but are not limited to:

(a) Restriction on the scope of professional practice.

(b) Peer review.

(c) Required education or counseling.

(d) Payment of restitution to each person who suffered harm or loss.

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

4. The Board shall not privately reprimand the holder of any certificate of registration issued pursuant to this chapter.

5. As used in this section:

(a) "Gross negligence" means conduct which demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) "Incompetency" means conduct which, in:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer,

↪ demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) "Negligence" means a deviation from the normal standard of professional care exercised generally by other members in:

(1) The profession of architecture or residential design; or

(2) Practice as a registered interior designer.

Sec. 44. NRS 623.290 is hereby amended to read as follows:

623.290 ~~[If the guilt of the accused is established in the opinion of the majority of the Board, the Secretary shall make proper entry in the record of its proceedings, stating the findings of the Board and the penalty, if any.]~~ If the registration of an architect, registered interior designer or residential designer is suspended or revoked, or he is given a written reprimand, notation of the penalty must be entered in the register of architects, register of registered interior designers or register of residential designers and in his personnel



1 file. Notification of the suspension, revocation or written reprimand
2 must be sent to the National Council of Architectural Registration
3 Boards or the National Council for Interior Design Qualification, as
4 appropriate. ~~[The Secretary shall give notice in writing of the~~
5 ~~decision and penalty to the holder of the certificate.]~~

6 **Sec. 45.** NRS 623.300 is hereby amended to read as follows:

7 623.300 ~~[At any time after 1 year from the date of revocation~~
8 ~~of] If the Board revokes~~ a certificate of registration, ~~[and upon the~~
9 ~~payment of all costs incurred by the Board as a result of the case at~~
10 ~~issue by]~~ the person whose certificate has been revoked ~~[, that~~
11 ~~person may make application to the Board for a new certificate, and~~
12 ~~the Board, at its discretion and upon evidence which in its opinion~~
13 ~~would warrant the granting of a new certificate, may issue a new~~
14 ~~certificate.] may apply for reinstatement of the certificate pursuant~~
15 ~~to the provisions of sections 2 to 41, inclusive, of this act.~~

16 **Sec. 46.** NRS 623.310 is hereby amended to read as follows:

17 623.310 The Board shall, by regulation, adopt a fee schedule
18 which may not exceed the following:

19		
20	For an examination for a certificate	\$800.00
21	For rewriting an examination or a part or parts	
22	failed	800.00
23	For a processing fee for an examination for	
24	registration as an architect	50.00
25	For a certificate of registration	125.00
26	For a temporary certificate of registration	500.00
27	For initial registration or renewal of registration	300.00
28	For the late renewal of an expired certificate	
29	within 1 year after its expiration	220.00
30	For the late renewal of a certificate which has	
31	been expired for more than 1 year but not	
32	more than 3 years	300.00
33	For the [restoration] <i>reinstatement</i> of a revoked	
34	certificate.....	500.00
35	For change of address.....	5.00
36	For replacement of a certificate.....	30.00
37	For application forms	25.00
38	For photostatic copies, each sheet	[25] 0.25

39 **Sec. 47.** NRS 623.335 is hereby amended to read as follows:

40 623.335 *In addition to any other immunity provided by the*
41 *provisions of sections 2 to 41, inclusive, of this act:*

42 1. Any person who furnishes information concerning an
43 applicant for registration or a holder of a certificate of registration in
44 good faith and without malicious intent is immune from any civil
45 action for furnishing that information.



2. The Board, any member, employee or committee of the Board, counsel, investigator, expert, hearing officer, registrant or other person who assists the Board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning licensure or reissuance of a license or a criminal prosecution is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in response to information acquired by the Board.

(b) Disseminating information concerning an applicant for registration or a registrant to any other licensing board, national association of registered boards, an agency of the Federal Government or of the State, the Attorney General or any law enforcement agency.

Sec. 48. NRS 623.365 is hereby amended to read as follows:

623.365 In addition to any other civil penalty provided by law, a person who violates any provision of this chapter or any regulation adopted by the Board is subject to a civil penalty of not more than \$10,000 for each violation. Any such penalty must be imposed by the Board at a hearing ~~[for which written notice has been given not less than 30 days before the hearing.]~~ *conducted pursuant to the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 49. NRS 623A.100 is hereby amended to read as follows:

623A.100 1. At each annual meeting of the Board, the members shall:

(a) Elect a President and a Secretary; and

(b) Appoint an Executive Director.

2. The President and the Secretary of the Board serve without additional compensation.

3. The Executive Director must not be a member of the Board and is entitled to a salary fixed by the Board.

4. The Executive Director shall:

(a) Keep an accurate record of all proceedings of the Board;

(b) Maintain custody of the official seal;

(c) Maintain a file containing the names and addresses of all holders of certificates of registration and certificates to practice as a landscape architect intern;

(d) Submit to the Board each application for a certificate of registration or certificate to practice as a landscape architect intern that is filed with the Board;

(e) If a holder of a certificate of registration or certificate to practice as a landscape architect intern has violated any provision of this chapter, file a complaint ~~[with the Attorney General.]~~ *pursuant to the provisions of sections 2 to 41, inclusive, of this act;* and

(f) Perform any other duties assigned to him by the Board.



1 **Sec. 50.** NRS 623A.140 is hereby amended to read as follows:

2 623A.140 ~~{The}~~ *In a manner consistent with the provisions of*
3 *sections 2 to 41, inclusive, of this act, the* Board may:

4 1. Grant or refuse certificates after examination and revoke or
5 suspend a certificate or take any other disciplinary action set forth in
6 NRS 623A.270 for any of the causes specified in this chapter.

7 2. Take depositions and issue subpoenas for the purpose of any
8 hearing authorized by this chapter.

9 3. Establish reasonable educational requirements for
10 applicants.

11 4. Establish requirements for approval of schools of landscape
12 architecture.

13 **Sec. 51.** NRS 623A.150 is hereby amended to read as follows:

14 623A.150 1. All money coming into the possession of the
15 Board must be kept or deposited by the Executive Director in an
16 account in a bank, credit union or savings and loan association in
17 this State.

18 2. Except as otherwise provided in subsection 6, all money
19 collected by the Board must be used to pay the expenses of:

20 (a) Examinations and the issuance of certificates of registration
21 and certificates to practice as a landscape architect intern; and

22 (b) Conducting the business of the Board.

23 3. The expenses, including the per diem allowances and travel
24 expenses of the members and employees of the Board while
25 engaged in the business of the Board and the expenses to conduct
26 examinations, must be paid from the current receipts. No portion
27 thereof may be paid from the State Treasury.

28 4. Any balance remaining in excess of the expenses incurred
29 may be retained by the Board and used to defray the future expenses
30 of the Board.

31 5. ~~{The}~~ *In a manner consistent with the provisions of*
32 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
33 hearing officer or panel its authority to take any disciplinary action
34 pursuant to the provisions of this chapter, impose and collect fines
35 and penalties therefor and deposit the money therefrom in an
36 account maintained by the Board in a bank, credit union or savings
37 and loan association specified in subsection 1.

38 6. If a hearing officer or panel is not authorized to take
39 disciplinary action pursuant to the provisions of subsection 5 and the
40 Board deposits the money collected from the imposition of fines
41 with the State Treasurer for credit to the State General Fund, it may
42 present a claim to the State Board of Examiners for recommendation
43 to the Interim Finance Committee if money is needed to pay
44 attorney's fees or the costs of an investigation, or both.



1 **Sec. 52.** NRS 623A.280 is hereby amended to read as follows:
2 623A.280 1. The following acts, among others, constitute
3 cause for disciplinary action : ~~[if proof satisfactory to the Board is~~
4 ~~presented that:]~~

5 (a) A holder of a certificate of registration has signed or sealed
6 instruments of service which were not prepared by him or under his
7 direct supervision.

8 (b) A holder of a certificate of registration has permitted the use
9 of his signature or seal by another person to evade the provisions of
10 this chapter or any regulation adopted by the Board.

11 (c) A holder of a certificate of registration has not signed, sealed
12 or dated instruments of service prepared by him.

13 (d) A holder of a certificate of registration or certificate to
14 practice as a landscape architect intern impersonates a landscape
15 architect or landscape architect intern of the same or similar name.

16 (e) A holder of a certificate of registration or certificate to
17 practice as a landscape architect intern practices under an assumed,
18 fictitious or corporate name.

19 (f) A holder of a certificate of registration or certificate to
20 practice as a landscape architect intern practices landscape
21 architecture in violation of the provisions of this chapter or any
22 regulation adopted by the Board.

23 (g) A holder of a certificate of registration or certificate to
24 practice as a landscape architect intern has obtained his certificate of
25 registration or certificate to practice as a landscape architect intern
26 by fraud or misrepresentation.

27 (h) A holder of a certificate of registration or certificate to
28 practice as a landscape architect intern is guilty of fraud or deceit in
29 the practice of landscape architecture.

30 (i) A holder of a certificate of registration or certificate to
31 practice as a landscape architect intern is guilty of incompetency,
32 negligence or gross negligence.

33 (j) A holder of a certificate of registration or certificate to
34 practice as a landscape architect intern is convicted of or enters a
35 plea of nolo contendere to any crime an essential element of which
36 is dishonesty or which is directly related to the practice of landscape
37 architecture.

38 (k) A holder of a certificate of registration or certificate to
39 practice as a landscape architect intern is guilty of aiding or abetting
40 any person in the violation of the provisions of this chapter or any
41 regulation adopted by the Board.

42 (l) A person practices as a landscape architect with a certificate
43 of registration or certificate to practice as a landscape architect
44 intern that has expired or has been suspended or revoked.



(m) A holder of a certificate of registration or certificate to practice as a landscape architect intern is disciplined by an agency of another state or foreign country which regulates the practice of landscape architecture and at least one of the grounds for the disciplinary action taken is a ground for disciplinary action pursuant to the provisions of this chapter.

(n) A holder of a certificate of registration or certificate to practice as a landscape architect intern fails to comply with an order issued by the Board or to cooperate in an investigation conducted ~~[by the Board.]~~ *pursuant to the provisions of this chapter or sections 2 to 41, inclusive, of this act.*

2. As used in this section:

(a) “Gross negligence” means conduct that demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) “Incompetency” means conduct that, in the practice of landscape architecture, demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) “Negligence” means a deviation from the normal standard of professional care exercised generally by other members in the practice of landscape architecture.

Sec. 53. NRS 623A.290 is hereby amended to read as follows:

623A.290 ~~[1.]~~ The Board, any member of the Board or any other person who becomes aware that any one or more of the grounds for initiating disciplinary action may exist as to a holder of a certificate of registration or certificate to practice as a landscape architect intern may file a complaint ~~[specifying the relative facts with the Executive Director of the Board.]~~

~~—2.— A complaint must be made in writing and be signed and verified by the person making it.]~~ *pursuant to the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 54. NRS 623A.351 is hereby amended to read as follows:

623A.351 *In addition to any other immunity provided by the provisions of sections 2 to 41, inclusive, of this act:*

1. Any person who, in good faith and without malicious intent, provides information concerning a holder of a certificate of registration or certificate to practice as a landscape architect intern or an applicant for a certificate of registration or certificate to practice as a landscape architect intern is immune from any civil action for providing that information.

2. Any person who assists the Board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning the issuance or renewal of a certificate of registration or certificate to practice as a landscape architect intern or a criminal prosecution is immune from any civil liability for:



(a) Any decision or action taken in good faith and without malicious intent in response to information acquired by the Board; and

(b) Disseminating information concerning a holder of a certificate of registration or certificate to practice as a landscape architect intern or an applicant for a certificate of registration or certificate to practice as a landscape architect intern to:

(1) Any other licensing board;

(2) A national association of registered boards;

(3) An agency of this State or the Federal Government;

(4) The Attorney General; or

(5) Any law enforcement agency.

Sec. 55. NRS 623A.353 is hereby amended to read as follows:

623A.353 1. Except as otherwise provided in this section, a record of the Board that relates to ~~[-~~

~~-(a) An~~ *an* employee of the Board ~~[-~~

~~-(b) An~~ *or an* examination administered by the Board ~~[-; or~~

~~-(c) A complaint filed with the Board and any information obtained as a result of its investigation of the complaint,~~

~~-}] is confidential.~~

2. A record specified in subsection 1 may be disclosed, pursuant to procedures established by regulation of the Board, to:

(a) A court;

(b) An agency of the Federal Government;

(c) Another state;

(d) A political subdivision of this State; or

(e) Any other related professional board or organization.

3. ~~[Upon completion of an investigation by the Board, any record of the Board specified in paragraph (c) of subsection 1 is a public record only if:~~

~~-(a) Disciplinary action is imposed by the Board as a result of the investigation; or~~

~~-(b) The person who was the subject of the investigation submits a written statement to the Board requesting that the record be made a public record.~~

~~—4.]~~ The Board may report to any other related professional board and organization the score of an applicant on an examination administered by the Board.

4. The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.

Sec. 56. NRS 623A.365 is hereby amended to read as follows:

623A.365 1. In addition to any other penalty provided by law, a person who violates any provision of this chapter or any



1 regulation adopted by the Board is subject to a civil penalty of not
2 more than \$5,000 for each violation. Any such penalty must be
3 imposed by the Board at a hearing ~~[for which notice has been given]~~
4 *conducted* pursuant to ~~[NRS 623A.305.]~~ *the provisions of sections*
5 *2 to 41, inclusive, of this act.*

6 2. If a person does not pay a civil penalty imposed pursuant to
7 subsection 1 within 60 days after the order of the Board becomes
8 final, the order may be executed upon in the same manner as a
9 judgment issued by a court.

10 **Sec. 57.** NRS 625.150 is hereby amended to read as follows:

11 625.150 1. The Board shall deposit in banks, credit unions
12 and savings and loan associations in the State of Nevada all money
13 collected by it.

14 2. Except as otherwise provided in subsection 6, all money
15 collected by the Board must be used to meet the expenses of
16 conducting examinations, issuing licenses and conducting the office
17 of the Board.

18 3. The expenses of the Board, including the per diem
19 allowances and travel expenses of the members and employees of
20 the Board while engaged in the business of the Board and the
21 expenses of conducting examinations, must be paid from the current
22 receipts. No portion thereof may be paid from the State Treasury.

23 4. Any balance remaining in excess of the expenses incurred
24 may be retained by the Board and used in defraying the future
25 expenses thereof.

26 5. ~~[The]~~ *In a manner consistent with the provisions of*
27 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
28 hearing officer or panel its authority to take any disciplinary action
29 pursuant to this chapter, impose and collect fines and penalties
30 therefor and deposit the money therefrom in banks, credit unions or
31 savings and loan associations in this State.

32 6. If a hearing officer or panel is not authorized to take
33 disciplinary action pursuant to subsection 5 and the Board deposits
34 the money collected from the imposition of fines with the State
35 Treasurer for credit to the State General Fund, it may present a
36 claim to the State Board of Examiners for recommendation to the
37 Interim Finance Committee if money is needed to pay attorney's
38 fees or the costs of an investigation, or both.

39 7. The Board shall consider and take appropriate action
40 concerning a written notification received by the Board pursuant to
41 NRS 278.587 or 338.176.

42 **Sec. 58.** NRS 625.397 is hereby amended to read as follows:

43 625.397 The Board may require any person:

44 1. Whose license to practice professional engineering or land
45 surveying has expired; or



1 2. Who has been the subject of a disciplinary proceeding
2 ~~{before the Board,}~~ *pursuant to the provisions of sections 2 to 41,*
3 *inclusive, of this act,*

4 ↳ to pass a written or oral examination as a condition of reinstating
5 or renewing his license.

6 **Sec. 59.** NRS 625.405 is hereby amended to read as follows:

7 625.405 *In addition to any other immunity provided by the*
8 *provisions of sections 2 to 41, inclusive, of this act:*

9 1. Any person who furnishes information concerning a
10 licensee, an applicant for licensure, an intern or an applicant for
11 certification as an intern in good faith and without malicious intent
12 is immune from any civil action for furnishing that information.

13 2. The Board, any member, employee or committee of the
14 Board, counsel, investigator, expert, hearing officer, licensee, intern
15 or other person who assists the Board in the investigation or
16 prosecution of an alleged violation of a provision of this chapter, a
17 proceeding concerning licensure or reissuance of a license or a
18 criminal prosecution is immune from any civil liability for:

19 (a) Any decision or action taken in good faith and without
20 malicious intent in response to information acquired by the Board.

21 (b) Disseminating information concerning a licensee, an
22 applicant for licensure, an intern or an applicant for certification as
23 an intern to any other licensing board, national association of
24 registered boards, an agency of the Federal Government or of the
25 State, the Attorney General or any law enforcement agency.

26 **Sec. 60.** NRS 625.410 is hereby amended to read as follows:

27 625.410 The Board may take disciplinary action against a
28 licensee, an applicant for licensure, an intern or an applicant for
29 certification as an intern for:

30 1. The practice of any fraud or deceit in obtaining or
31 attempting to obtain or renew a license or cheating on any
32 examination required by this chapter.

33 2. Any gross negligence, incompetency or misconduct in the
34 practice of professional engineering as a professional engineer or in
35 the practice of land surveying as a professional land surveyor.

36 3. Aiding or abetting any person in the violation of any
37 provision of this chapter or regulation adopted by the Board.

38 4. Conviction of or entry of a plea of nolo contendere to any
39 crime an essential element of which is dishonesty or which is
40 directly related to the practice of engineering or land surveying.

41 5. A violation of any provision of this chapter or regulation
42 adopted by the Board.

43 6. Discipline by another state or territory, the District of
44 Columbia, a foreign country, the Federal Government or any other
45 governmental agency, if at least one of the grounds for discipline is



1 the same or substantially equivalent to any ground contained in this
2 chapter.

3 7. Practicing after the license of the professional engineer or
4 professional land surveyor has expired or has been suspended or
5 revoked.

6 8. Failing to comply with an order issued by the Board.

7 9. Failing to provide requested information within 30 days after
8 receipt of *such* a request by the Board or ~~[its]~~ *any* investigators
9 concerning a complaint made *pursuant* to the ~~[Board.]~~ *provisions of*
10 *sections 2 to 41, inclusive, of this act.*

11 **Sec. 61.** NRS 625.420 is hereby amended to read as follows:

12 625.420 ~~[1.] Any person may file [with the Board a charge~~
13 ~~concerning a violation of any provision of this chapter or regulation~~
14 ~~adopted by the Board against any person. The charges must be in~~
15 ~~writing and filed with the Board.~~

16 ~~—2. All charges, unless dismissed by the Board as unfounded or~~
17 ~~trivial, must be heard by the Board within a reasonable time. An~~
18 ~~action against a person may not be commenced by the filing of a~~
19 ~~formal complaint more than 1 year after the date on which the Board~~
20 ~~received the charges.] a complaint pursuant to the provisions of~~
21 *sections 2 to 41, inclusive, of this act.*

22 **Sec. 62.** NRS 625.425 is hereby amended to read as follows:

23 625.425 1. Any information obtained during the course of an
24 investigation by the Board *of an applicant for licensure or*
25 *certification* and any record of *such* an investigation is confidential.
26 ~~[If no disciplinary action is taken against a licensee, an applicant for~~
27 ~~licensure, an intern or an applicant for certification as an intern, or~~
28 ~~no civil penalty is imposed pursuant to NRS 625.590, the~~
29 ~~information in his investigative file remains confidential.~~

30 ~~—2. The complaint or other document filed by the Board to~~
31 ~~initiate disciplinary action and all documents and information~~
32 ~~considered by the Board when determining whether to impose~~
33 ~~discipline are public records.~~

34 ~~—3.] 2. The provisions of this section do not prohibit the Board~~
35 ~~or its employees from communicating and cooperating with another~~
36 ~~licensing board or any other agency that is investigating a person.~~

37 *3. The confidentiality and disclosure of any records of the*
38 *Board which relate to a complaint, investigation or disciplinary*
39 *proceeding are governed by the provisions of sections 2 to 41,*
40 *inclusive, of this act.*

41 **Sec. 63.** NRS 625.430 is hereby amended to read as follows:

42 625.430 *Notwithstanding the provisions of sections 2 to 41,*
43 *inclusive, of this act:*

44 1. ~~[The time and place for the hearing must be fixed by the~~
45 ~~Board, and notice of the time and place of hearing must be~~



~~personally served on the person against whom a complaint has been filed with the Board or mailed to his last known address at least 30 days before the date fixed for the hearing.~~

~~—2.]~~ The Board may suspend the license of a licensee without a hearing if the Board finds, based upon evidence in its possession, that the public health, safety or welfare imperatively requires summary suspension of the license and incorporates that finding in its order.

2. If the Board summarily suspends the license of a licensee, a hearing must be held within 30 days after the suspension.

Sec. 64. NRS 625.460 is hereby amended to read as follows:

625.460 1. If, after *notice and* a hearing ~~[]~~ *as required by law*, a majority of the members of the Board present at the hearing vote in favor of finding ~~[the]~~ *an* accused person guilty, the Board may:

(a) Revoke the license of the professional engineer or professional land surveyor or deny a license to the applicant;

(b) Suspend the license of the professional engineer or professional land surveyor;

(c) Fine the licensee or applicant for licensure not more than \$15,000 for each violation of a provision of this chapter or any regulation adopted by the Board;

(d) Place the licensee or applicant for licensure on probation for such periods as it deems necessary and, if the Board deems appropriate, require the licensee or applicant for licensure to pay restitution to clients or other persons who have suffered economic losses as a result of a violation of the provisions of this chapter or the regulations adopted by the Board; or

(e) Take such other disciplinary action as the Board deems appropriate.

2. The Board shall not issue a private reprimand.

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

Sec. 65. NRS 625.470 is hereby amended to read as follows:

625.470 The Board may ~~[reissue]~~ *reinstate* a license to any person whose license has been revoked if *the person complies with the provisions of sections 2 to 41, inclusive, of this act and* a majority of the members of the Board vote in favor of ~~[reissuance.]~~ *reinstatement.*

Sec. 66. NRS 625.510 is hereby amended to read as follows:

625.510 ~~[It shall be mandatory upon]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act*, the Board ~~[]~~



1 ~~1. To investigate~~ *shall cause the investigation of* any
2 complaints or reported violations of any of the provisions of this
3 chapter ~~[- and~~

4 ~~2. To~~ *and* take the steps necessary to prosecute such violations
5 if the Board deems it necessary.

6 **Sec. 67.** NRS 625.590 is hereby amended to read as follows:

7 625.590 1. In addition to any other penalty provided by law,
8 a person who violates any provision of this chapter or any regulation
9 adopted by the Board is subject to a civil penalty of not more than
10 \$15,000 for each violation. Any such penalty must be imposed by
11 the Board at a hearing ~~[for which notice has been given]~~ *conducted*
12 pursuant to ~~[NRS 625.430.]~~ *the provisions of sections 2 to 41,*
13 *inclusive, of this act.*

14 2. If a person does not pay a civil penalty imposed pursuant to
15 subsection 1 within 60 days after the order of the Board becomes
16 final, the order may be executed upon in the same manner as a
17 judgment issued by a court.

18 **Sec. 68.** NRS 628.140 is hereby amended to read as follows:

19 628.140 1. Except as otherwise provided in subsection 3, all
20 fees and other money received by the Board pursuant to the
21 provisions of this chapter must be deposited in banks, credit unions
22 or savings and loan associations in the State of Nevada and
23 expended solely for the purposes of this chapter. The money so
24 deposited does not revert to the State General Fund. The
25 compensation provided for by this chapter and all expenses incurred
26 under this chapter must be paid from this money. No compensation
27 or expenses incurred under this chapter may be charged against the
28 State General Fund.

29 2. ~~[The]~~ *In a manner consistent with the provisions of*
30 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
31 hearing officer or panel its authority to take any disciplinary action
32 pursuant to this chapter, impose and collect civil penalties, court
33 costs and attorney's fees therefor and deposit the money therefrom
34 in banks, credit unions or savings and loan associations in this State.

35 3. If a hearing officer or panel is not authorized to take
36 disciplinary action pursuant to subsection 2 and the Board deposits
37 the money collected from the imposition of civil penalties, court
38 costs and attorney's fees with the State Treasurer for credit to the
39 State General Fund, it may present a claim to the State Board of
40 Examiners for recommendation to the Interim Finance Committee if
41 money is needed to pay attorney's fees or the costs of an
42 investigation, or both.

43 **Sec. 69.** NRS 628.390 is hereby amended to read as follows:

44 628.390 1. After ~~[giving]~~ notice and ~~[conducting]~~ a hearing
45 ~~[-]~~ *as required by law,* the Board may revoke, or may suspend for a



1 period of not more than 5 years, any certificate issued under NRS
2 628.190 to 628.310, inclusive, any registration or license granted to
3 a registered public accountant under NRS 628.350, or any
4 registration of a partnership, corporation, limited-liability company
5 or office, or may revoke, suspend or refuse to renew any permit
6 issued under NRS 628.380, or may publicly censure the holder of
7 any permit, for any one or any combination of the following causes:

8 (a) Fraud or deceit in obtaining a certificate as a certified public
9 accountant, or in obtaining registration or a license as a public
10 accountant under this chapter, or in obtaining a permit to practice
11 public accounting under this chapter.

12 (b) Dishonesty, fraud or gross negligence by a certified or
13 registered public accountant in the practice of public accounting or,
14 if not in the practice of public accounting, of a kind which adversely
15 affects the ability to perform public accounting.

16 (c) Violation of any of the provisions of this chapter.

17 (d) Violation of a regulation or rule of professional conduct
18 adopted by the Board under the authority granted by this chapter.

19 (e) Conviction of a felony under the laws of any state or of the
20 United States relating to the practice of public accounting.

21 (f) Conviction of any crime, an element of which is dishonesty
22 or fraud, under the laws of any state or of the United States.

23 (g) Cancellation, revocation, suspension or refusal to renew
24 authority to practice as a certified public accountant or a registered
25 public accountant by any other state, for any cause other than failure
26 to pay an annual registration fee or to comply with requirements for
27 continuing education or review of his practice in the other state.

28 (h) Suspension or revocation of the right to practice before any
29 state or federal agency.

30 (i) Unless the person has been placed on inactive or retired
31 status, failure to obtain an annual permit under NRS 628.380,
32 within:

33 (1) Sixty days after the expiration date of the permit to
34 practice last obtained or renewed by the holder of a certificate or
35 registrant; or

36 (2) Sixty days after the date upon which the holder of a
37 certificate or registrant was granted his certificate or registration, if
38 no permit was ever issued to him, unless the failure has been
39 excused by the Board.

40 (j) Conduct discreditable to the profession of public accounting
41 or which reflects adversely upon the fitness of the person to engage
42 in the practice of public accounting.

43 (k) Making a false or misleading statement in support of an
44 application for a certificate, registration or permit of another person.



2. After ~~[giving]~~ notice and ~~[conducting]~~ a hearing ~~[]~~ *as required by law*, the Board may deny an application to take the examination prescribed by the Board pursuant to NRS 628.190, deny a person admission to such an examination, invalidate a grade received for such an examination or deny an application for a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, to a person who has:

(a) Made any false or fraudulent statement, or any misleading statement or omission relating to a material fact in an application:

(1) To take the examination prescribed by the Board pursuant to NRS 628.190; or

(2) For a certificate issued pursuant to NRS 628.190 to 628.310, inclusive;

(b) Cheated on an examination prescribed by the Board pursuant to NRS 628.190 or any such examination taken in another state or jurisdiction of the United States;

(c) Aided, abetted or conspired with any person in a violation of the provisions of paragraph (a) or (b); or

(d) Committed any combination of the acts set forth in paragraphs (a), (b) and (c).

3. In addition to other penalties prescribed by this section, the Board may impose a civil penalty of not more than \$5,000 for each violation of this section.

4. The Board shall not privately censure the holder of any permit, license or certificate of registration.

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

Sec. 70. NRS 628.400 is hereby amended to read as follows:

628.400 1. After ~~[giving]~~ notice and ~~[conducting]~~ a hearing ~~[]~~ *as required by law*, the Board shall revoke the registration of a partnership, corporation or limited-liability company if at any time it does not have all the qualifications prescribed by the section of this chapter under which it qualified for registration.

2. After ~~[giving]~~ notice and ~~[conducting]~~ a hearing ~~[]~~ *as required by law*, the Board may revoke or suspend the registration of a partnership, corporation or limited-liability company, or may censure the partnership, corporation or limited-liability company, or impose a sanction authorized by NRS 628.390, for any of the causes enumerated in subsection 1 of NRS 628.390, or for one or both of the following additional causes:

(a) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner or shareholder who is personally engaged in the practice of public accounting in this State, whether or not he holds a live permit in this State.



(b) The cancellation, revocation, suspension or refusal to renew the authority of the partnership, corporation or limited-liability company, or any partner, shareholder or member thereof to practice public accounting in any other state for any cause other than failure to pay an annual registration fee or comply with a requirement for continuing education or practice review in the other state.

Sec. 71. NRS 628.410 is hereby amended to read as follows:

628.410 1. ~~{The Board may initiate proceedings under this chapter either on its own motion or on the complaint of any person.~~

~~—2. A written notice of the hearing must be served on the respondent not less than 30 days before the date of the hearing, either personally or by mailing a copy thereof by registered or certified mail to the address of the respondent last known to the Board.~~

~~—3. If, after having been served with the notice of hearing, the respondent fails to appear at the hearing and defend, the Board may proceed to hear evidence against him and may enter such order as is justified by the evidence. The order is final unless the respondent petitions for a review thereof. Within 30 days after the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen the proceedings and may permit the respondent to submit evidence in his behalf.~~

~~—4. At any hearing a respondent may be represented before the Board by counsel or by a certified public accountant or registered public accountant of this State in good standing. The respondent is entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.~~

~~—5.} The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents. In case of disobedience to a subpoena the Board may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of documentary evidence.~~

~~{6.—A}~~

2. In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, a hearing may be conducted by {:

~~—(a) The} the Board, less any member or members who have been disqualified, without the appointment of persons to hear the case in place of the disqualified members , {; or~~

~~—(b) A member of the Board appointed by the Board as a hearing officer, with the remaining members of the Board, less any member or members who have been disqualified, to review the record, make a final decision and issue the order,~~

~~—} unless the Board, after disqualifications, consists of less than three members to hear or review the case, in which circumstance the~~



1 Governor must appoint one or more qualified persons so that the
2 panel which hears or reviews the case consists of at least three
3 persons.

4 ~~[7.—A stenographic record of the hearing must be kept and a~~
5 ~~transcript thereof filed with the Board.~~

6 ~~—8.— At all hearings the Attorney General or one of his deputies~~
7 ~~designated by him or such other legal counsel as may be employed~~
8 ~~shall appear and represent the Board.~~

9 ~~—9.]~~ 3. The decision of the Board must be by majority vote
10 thereof.

11 **Sec. 72.** NRS 628.418 is hereby amended to read as follows:

12 628.418 ~~[1.—Except as otherwise provided in this section, a~~
13 ~~complaint filed with the Board, all documents and other information~~
14 ~~filed with the complaint and all documents and other information~~
15 ~~compiled as a result of an investigation conducted to determine~~
16 ~~whether to initiate disciplinary action are confidential.~~

17 ~~—2.— The complaint or other document filed by the Board to~~
18 ~~initiate disciplinary action and all documents and information~~
19 ~~considered by the Board when determining whether to impose~~
20 ~~discipline are public records.]~~ *The confidentiality and disclosure of*
21 *any records of the Board which relate to a complaint, investigation*
22 *or disciplinary proceeding are governed by the provisions of*
23 *sections 2 to 41, inclusive, of this act.*

24 **Sec. 73.** NRS 628.420 is hereby amended to read as follows:

25 628.420 ~~[Upon]~~ *In a manner consistent with the provisions of*
26 *sections 2 to 41, inclusive, of this act and upon* application in
27 writing and after a hearing, the Board may:

28 1. ~~[Issue a new certificate to]~~ *Reinstate the certificate of* a
29 certified public accountant whose certificate has been revoked;

30 2. ~~[Permit the reregistration]~~ *Reinstate the registration* of a
31 public accountant whose registration has been revoked;

32 3. ~~[Reissue]~~ *Reinstate* or modify the suspension of any permit
33 to practice public accounting which has been revoked or suspended,
34 unless the permit was suspended pursuant to NRS 425.540; or

35 4. Modify any action taken against any person or any order
36 which it has issued pursuant to NRS 628.390.

37 **Sec. 74.** NRS 628.420 is hereby amended to read as follows:

38 628.420 ~~[Upon]~~ *In a manner consistent with the provisions of*
39 *sections 2 to 41, inclusive, of this act and upon* application in
40 writing and after a hearing, the Board may:

41 1. ~~[Issue a new certificate to]~~ *Reinstate the certificate of* a
42 certified public accountant whose certificate has been revoked;

43 2. ~~[Permit the reregistration]~~ *Reinstate the registration* of a
44 public accountant whose registration has been revoked;



3. ~~[Reissue]~~ *Reinstate* or modify the suspension of any permit to practice public accounting which has been revoked or suspended; or

4. Modify any action taken against any person or any order which it has issued pursuant to NRS 628.390.

Sec. 75. NRS 630A.155 is hereby amended to read as follows:

630A.155 The Board shall:

1. Regulate the practice of homeopathic medicine in this State and any activities that are within the scope of such practice, to protect the public health and safety and the general welfare of the people of this State.

2. Determine the qualifications of, and examine, applicants for licensure or certification pursuant to this chapter, and specify by regulation the methods to be used to check the background of such applicants.

3. License or certify those applicants it finds to be qualified.

4. ~~[Investigate, hear and decide]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, cause the investigation of* all complaints made against any homeopathic physician, advanced practitioner of homeopathy, homeopathic assistant or any agent or employee of any of them, or any facility where the primary practice is homeopathic medicine. If a complaint concerns a practice which is within the jurisdiction of another licensing board, including, without limitation, spinal manipulation, surgery, nursing or allopathic medicine, the Board shall refer the complaint *, as appropriate,* to the *Commissioner of Occupational Licensing or the* other licensing board.

Sec. 76. NRS 630A.160 is hereby amended to read as follows:

630A.160 1. Out of the money coming into the possession of the Board, each member of the Board is entitled to receive:

(a) A salary of not more than \$80 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Expenses of the Board and the expenses and salaries of the members and employees of the Board must be paid from the fees received by the Board pursuant to the provisions of this chapter. Except as otherwise provided in subsection 6, no part of the salaries



1 or expenses of the members of the Board may be paid out of the
2 State General Fund.

3 4. All money received by the Board must be deposited in
4 financial institutions in this State that are federally insured or
5 insured by a private insurer approved pursuant to NRS 678.755.

6 5. ~~[The]~~ *In a manner consistent with the provisions of*
7 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
8 hearing officer or panel its authority to take any disciplinary action
9 pursuant to this chapter, impose and collect administrative fines,
10 court costs and attorney's fees therefor and deposit the money
11 therefrom in financial institutions in this State that are federally
12 insured or insured by a private insurer approved pursuant to
13 NRS 678.755.

14 6. If a hearing officer or panel is not authorized to take
15 disciplinary action pursuant to subsection 5, the Board shall deposit
16 the money collected from the imposition of administrative fines,
17 court costs and attorney's fees with the State Treasurer for credit to
18 the State General Fund. The Board may present a claim to the State
19 Board of Examiners for recommendation to the Interim Finance
20 Committee if money is needed to pay attorney's fees or the costs of
21 an investigation, or both.

22 **Sec. 77.** NRS 630A.210 is hereby amended to read as follows:

23 630A.210 1. ~~[The]~~ *In a manner consistent with the*
24 *provisions of sections 2 to 41, inclusive, of this act, the* Board may
25 hold hearings and conduct investigations relating to its duties under
26 this chapter and take evidence on any matter under inquiry before
27 the Board. The Secretary-Treasurer of the Board or, in his absence,
28 any member of the Board may administer oaths to any witness
29 appearing before the Board. The Secretary-Treasurer or President of
30 the Board may issue subpoenas to compel the attendance of
31 witnesses and the production of books, medical records, X-ray
32 photographs and other papers. The Secretary-Treasurer, President or
33 other officer of the Board shall sign the subpoena on behalf of the
34 Board.

35 2. If any person fails to comply with a subpoena issued by the
36 Board, the Secretary-Treasurer or President of the Board may
37 petition the district court for an order of the court compelling
38 compliance with the subpoena.

39 3. Upon such a petition, the court shall enter an order directing
40 the person subpoenaed to appear before the court at a time and place
41 to be fixed by the court in its order, the time to be not more than 10
42 days from the date of the order, and then and there show cause why
43 he has not complied with the subpoena. A certified copy of the order
44 must be served upon that person.



4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person must be dealt with as for contempt of court.

Sec. 78. NRS 630A.295 is hereby amended to read as follows:

630A.295 The Board shall adopt regulations:

1. Specifying the training, education and experience necessary for certification as an advanced practitioner of homeopathy.

2. Delineating the authorized scope of practice of an advanced practitioner of homeopathy.

3. Establishing the procedure for application for certification as an advanced practitioner of homeopathy.

4. Establishing the duration, renewal and termination of certificates for advanced practitioners of homeopathy.

5. Establishing requirements for the continuing education of advanced practitioners of homeopathy.

6. Delineating the grounds ~~[and—procedures]~~ respecting disciplinary actions against advanced practitioners of homeopathy.

Sec. 79. NRS 630A.299 is hereby amended to read as follows:

630A.299 The Board shall adopt regulations regarding the certification of a homeopathic assistant, including, but not limited to:

1. The educational and other qualifications of applicants.

2. The required academic program for applicants.

3. The procedures for applications for and the issuance of certificates.

4. The tests or examinations of applicants by the Board.

5. The medical services which a homeopathic assistant may perform, except that he may not perform those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, podiatric physicians, optometrists or hearing aid specialists under chapter 631, 634, 635, 636 or 637A, respectively, of NRS.

6. The duration, renewal and termination of certificates.

7. The grounds ~~[and—procedures]~~ respecting disciplinary actions against homeopathic assistants.

8. The supervision of a homeopathic assistant by a supervising homeopathic physician.

9. The establishment of requirements for the continuing education of homeopathic assistants.

Sec. 80. NRS 630A.390 is hereby amended to read as follows:

630A.390 1. Any person ~~[who becomes aware that a person practicing medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating~~



~~disciplinary action~~ may file a written complaint ~~[with the Board.]~~
pursuant to the provisions of sections 2 to 41, inclusive, of this act.

2. Any medical society or medical facility or facility for the dependent licensed in this State shall report to the Board the initiation and outcome of any disciplinary action against any homeopathic physician concerning the care of a patient or the competency of the physician.

3. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a homeopathic physician:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law relating to controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence.

Sec. 81. NRS 630A.400 is hereby amended to read as follows:

630A.400 1. ~~[The]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, the* Board or a committee of its members designated by the Board shall review every complaint filed ~~[with the Board]~~ *pursuant to the provisions of sections 2 to 41, inclusive, of this act,* and conduct an investigation to determine whether there is a reasonable basis for compelling a homeopathic physician to take a mental or physical examination or an examination of his competence to practice homeopathic medicine.

2. If a committee is designated, it must be composed of at least three members of the Board, at least one of whom is a licensed homeopathic physician.

3. ~~[If, from the complaint or from other official records, it appears that the complaint is not frivolous and the complaint charges gross or repeated malpractice, the Board shall transmit the original complaint, along with further facts or information derived from its own review, to the Attorney General.~~

~~—4.]~~ Following the investigation, the committee shall present its evaluation and recommendations to the Board. The Board shall review the committee's findings to determine whether to take any further action, but a member of the Board who participated in the investigation may not participate in this review or in any subsequent hearing or action taken by the Board.

Sec. 82. NRS 630A.440 is hereby amended to read as follows:

630A.440 ~~[If]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if* the Board issues an order summarily suspending the license of a homeopathic physician pending proceedings for disciplinary action and requires the homeopathic



1 physician to submit to a mental or physical examination or an
2 examination of his competence to practice homeopathic medicine,
3 the examination must be conducted and the results obtained not later
4 than 60 days after the Board issues its order.

5 **Sec. 83.** NRS 630A.450 is hereby amended to read as follows:

6 630A.450 ~~[[~~ *Notwithstanding the provisions of sections 2 to*
7 *41, inclusive, of this act, if* the Board issues an order summarily
8 suspending the license of a homeopathic physician pending
9 proceedings for disciplinary action, the court shall not stay that
10 order.

11 **Sec. 84.** NRS 630A.480 is hereby amended to read as follows:

12 630A.480 ~~[[1.— If, after an investigation by a committee or on~~
13 ~~its own initiative, the Board decides to proceed with disciplinary~~
14 ~~action, it shall bring charges against a licensed homeopathic~~
15 ~~physician and fix a time and place for a formal hearing. If]~~
16 *Notwithstanding the provisions of sections 2 to 41, inclusive, of*
17 *this act, if* the Board receives a report pursuant to subsection 5 of
18 NRS 228.420, ~~[such a hearing]~~ *a disciplinary proceeding regarding*
19 *the report* must be ~~[held]~~ *commenced* within 30 days after
20 ~~[receiving] the Board receives~~ the report. ~~[The Board shall notify~~
21 ~~the homeopathic physician of the charges brought against him,~~
22 ~~including the time and place set for the hearing, and of the sanctions~~
23 ~~authorized in NRS 630A.510.~~

24 ~~—2.— The Board, a hearing officer or a committee of the members~~
25 ~~of the Board shall hold the formal hearing on the charges at the time~~
26 ~~and place designated in the notification. If the hearing is before a~~
27 ~~committee, at least one member of the Board who is not a physician~~
28 ~~must participate in the hearing and in the final recommendation of~~
29 ~~the committee to the Board.]~~

30 **Sec. 85.** NRS 630A.490 is hereby amended to read as follows:

31 630A.490 *Except as otherwise provided in sections 2 to 41,*
32 *inclusive, of this act:*

33 1. Service of process made under this chapter must be either
34 personal or by registered or certified mail with return receipt
35 requested, addressed to the homeopathic physician at his last known
36 address. If personal service cannot be made and if notice by mail is
37 returned undelivered, the Secretary-Treasurer of the Board shall
38 cause notice to be published once a week for 4 consecutive weeks in
39 a newspaper published in the county of the homeopathic physician's
40 last known address or, if no newspaper is published in that county,
41 then in a newspaper widely distributed in that county.

42 2. Proof of service of process or publication of notice made
43 under this chapter must be filed with the Board and recorded in the
44 minutes of the Board.



1 **Sec. 86.** NRS 630A.500 is hereby amended to read as follows:

2 630A.500 ~~[H]~~ *Notwithstanding the provisions of sections 2 to*
3 *41, inclusive, of this act, in* any disciplinary hearing:

4 1. ~~[The Board, a panel of the members of the Board or a~~
5 ~~hearing officer is not bound by formal rules of evidence.~~

6 ~~—2.]~~ Proof of actual injury need not be established.

7 ~~[3.]~~ 2. A certified copy of the record of a court or a licensing
8 agency showing a conviction or plea of nolo contendere or the
9 suspension, revocation, limitation, modification, denial or surrender
10 of a license to practice homeopathic medicine is conclusive
11 evidence of its occurrence.

12 **Sec. 87.** NRS 630A.510 is hereby amended to read as follows:

13 630A.510 1. Any member of the Board who was not a
14 member of the investigative committee, if one was appointed, may
15 participate in the final order of the Board. If the Board, after *notice*
16 *and a [formal hearing,] hearing as required by law,* determines that
17 a violation of the provisions of this chapter or the regulations
18 adopted by the Board has occurred, it shall issue and serve on the
19 person charged an order, in writing, containing its findings and any
20 sanctions imposed by the Board. If the Board determines that no
21 violation has occurred, it shall dismiss the charges, in writing, and
22 notify the person that the charges have been dismissed.

23 2. If the Board finds that a violation has occurred, it may by
24 order:

25 (a) Place the person on probation for a specified period on any
26 of the conditions specified in the order.

27 (b) Administer to the person a public reprimand.

28 (c) Limit the practice of the person or exclude a method of
29 treatment from the scope of his practice.

30 (d) Suspend the license of the person for a specified period or
31 until further order of the Board.

32 (e) Revoke the license of the person to practice homeopathic
33 medicine.

34 (f) Require the person to participate in a program to correct a
35 dependence upon alcohol or a controlled substance, or any other
36 impairment.

37 (g) Require supervision of the person's practice.

38 (h) Impose an administrative fine not to exceed \$10,000.

39 (i) Require the person to perform community service without
40 compensation.

41 (j) Require the person to take a physical or mental examination
42 or an examination of his competence to practice homeopathic
43 medicine.

44 (k) Require the person to fulfill certain training or educational
45 requirements.



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. 88. NRS 630A.520 is hereby amended to read as follows:

630A.520 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order ~~§~~ *as provided by law.*

2. Every order of the Board which limits the practice of homeopathic medicine or suspends or revokes a license is effective from the date the Secretary-Treasurer of the Board certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 89. NRS 630A.530 is hereby amended to read as follows:

630A.530 1. Any person:

(a) Whose practice of homeopathic medicine has been limited;
or

(b) Whose license to practice homeopathic medicine has been:

(1) Suspended until further order; or

(2) Revoked,

↪ ~~[by an order of the Board]~~ may apply to the Board for removal of the limitation *or suspension* or ~~[restoration]~~ *may apply to the Board pursuant to the provisions of sections 2 to 41, inclusive, of this act for reinstatement* of his *revoked* license.

2. In hearing the application, the Board or a committee of members of the Board:

(a) May require the applicant to submit to a mental or physical examination or an examination of his competence to practice homeopathic medicine by physicians or other persons whom it designates and submit such other evidence of changed conditions and of fitness as it deems proper.

(b) Shall determine whether under all the circumstances the time of the application is reasonable.

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The applicant has the burden of proving by clear and convincing evidence that the requirements for ~~[restoration]~~ *reinstatement* of the license or removal of the limitation *or suspension* have been met.

4. The Board shall not ~~[restore]~~ *reinstate* a license unless it is satisfied that the applicant has complied with all of the terms and conditions set forth in the final order of the Board and that he is



1 capable of practicing homeopathic medicine with reasonable skill
2 and safety to patients.

3 5. ~~[To restore]~~ *In addition to any other requirements set forth*
4 *in sections 2 to 41, inclusive, of this act, to reinstate* a license that
5 has been revoked by the Board, a person must apply for a license
6 and take an examination as though he had never been licensed under
7 this chapter.

8 **Sec. 90.** NRS 630A.540 is hereby amended to read as follows:

9 630A.540 *In addition to any other immunity provided by the*
10 *provisions of sections 2 to 41, inclusive, of this act:*

11 1. Any person who furnishes information to the Board, in good
12 faith and without malicious intent in accordance with the provisions
13 of this chapter, concerning a person who is licensed or certified or
14 applies for a license or certificate under this chapter is immune from
15 civil liability for furnishing that information.

16 2. The Board and its members, staff, counsel, investigators,
17 experts, committees, panels, hearing officers and consultants are
18 immune from civil liability for any decision or action taken in good
19 faith and without malicious intent in response to information
20 received by the Board.

21 3. The Board and any of its members are immune from civil
22 liability for disseminating information concerning a person who is
23 licensed or certified or applies for a license or certificate under this
24 chapter to the Attorney General or any board or agency of the State,
25 hospital, medical society, insurer, employer, patient or his family or
26 law enforcement agency.

27 **Sec. 91.** NRS 630A.550 is hereby amended to read as follows:

28 630A.550 The filing and review of a complaint ~~[]~~ *pursuant to*
29 *sections 2 to 41, inclusive, of this act,* its dismissal without further
30 action or its ~~[transmittal to the Attorney General, and any~~
31 ~~subsequent]~~ disposition by the Board ~~[, the Attorney General]~~ or any
32 reviewing court do not preclude:

33 1. Any measure by a hospital or other institution or medical
34 society to limit or terminate the privileges of a homeopathic
35 physician, advanced practitioner of homeopathy or homeopathic
36 assistant according to its rules or the custom of the profession. No
37 civil liability attaches to any such action taken without malice even
38 if the ultimate disposition of the complaint is in favor of the
39 homeopathic physician, advanced practitioner of homeopathy or
40 homeopathic assistant.

41 2. Any appropriate criminal prosecution by the Attorney
42 General or a district attorney based upon the same or other facts.

43 **Sec. 92.** NRS 630A.560 is hereby amended to read as follows:

44 630A.560 ~~[The]~~ *In a manner consistent with the provisions of*
45 *sections 2 to 41, inclusive, of this act, the* Board is authorized to



1 prosecute all persons guilty of violation of the provisions of this
2 chapter and may employ investigators and such other assistants as
3 may be necessary to carry out the provisions of this chapter ~~[H]~~ *and*
4 *sections 2 to 41, inclusive, of this act*, but any expenses so incurred
5 must not be paid out of the State General Fund.

6 **Sec. 93.** NRS 633.301 is hereby amended to read as follows:

7 633.301 **1.** The Board shall keep a record of its proceedings
8 relating to licensing and disciplinary actions. Except as otherwise
9 provided in ~~[NRS 633.611,]~~ *this section*, the record must be open to
10 public inspection at all reasonable times and contain the name,
11 known place of business and residence, and the date and number of
12 the license of every osteopathic physician licensed under this
13 chapter.

14 **2.** *The confidentiality and disclosure of any records of the*
15 *Board which relate to a complaint, investigation or disciplinary*
16 *proceeding are governed by the provisions of sections 2 to 41,*
17 *inclusive, of this act.*

18 **Sec. 94.** NRS 633.509 is hereby amended to read as follows:

19 633.509 The expiration of a license by operation of law or by
20 order or decision of the Board or a court, or the voluntary surrender
21 of a license by a licensee, does not deprive ~~[the]~~ :

22 **1.** *The Commissioner of Occupational Licensing of*
23 *jurisdiction to proceed with any investigation of the licensee; or*

24 **2.** *The Board of jurisdiction to proceed with any investigation*
25 *of, or action or disciplinary proceeding against, the licensee or to*
26 *render a decision suspending or revoking the license.*

27 **Sec. 95.** NRS 633.528 is hereby amended to read as follows:

28 633.528 If the Board receives a report pursuant to the
29 provisions of NRS 633.526, 633.527, 690B.250 or 690B.260
30 indicating that a judgment has been rendered or an award has been
31 made against an osteopathic physician regarding an action or claim
32 for malpractice or that such an action or claim against the
33 osteopathic physician has been resolved by settlement, the Board
34 shall ~~[conduct]~~ *cause* an investigation *to be conducted pursuant to*
35 *the provisions of sections 2 to 41, inclusive, of this act* to determine
36 whether to impose disciplinary action against the osteopathic
37 physician regarding the action or claim, unless ~~[the Board has~~
38 ~~already commenced or completed]~~ such an investigation regarding
39 the action or claim *has already been commenced or completed*
40 before ~~[it]~~ *the Board* receives the report.

41 **Sec. 96.** NRS 633.529 is hereby amended to read as follows:

42 633.529 **1.** ~~[H]~~ *Notwithstanding the provisions of sections 2*
43 *to 41, inclusive, of this act, if* the Board receives a report pursuant
44 to the provisions of NRS 633.526, 633.527, 690B.250 or 690B.260
45 indicating that a judgment has been rendered or an award has been



1 made against an osteopathic physician regarding an action or claim
2 for malpractice or that such an action or claim against the
3 osteopathic physician has been resolved by settlement, the Board
4 may order that the osteopathic physician undergo a mental or
5 physical examination or an examination testing his competence to
6 practice medicine by osteopathic physicians or other examinations
7 designated by the Board to assist the Board or any investigative
8 committee of the Board in determining the fitness of the osteopathic
9 physician to practice medicine.

10 2. For the purposes of this section:

11 (a) Every osteopathic physician who applies for a license or who
12 holds a license under this chapter shall be deemed to have given his
13 consent to submit to a mental or physical examination or an
14 examination testing his competence to practice medicine when
15 ordered to do so in writing by the Board.

16 (b) The testimony or reports of the examining osteopathic
17 physician are not privileged communications.

18 **Sec. 97.** NRS 633.531 is hereby amended to read as follows:

19 633.531 The Board or any of its members, any medical review
20 panel of a hospital or medical society which becomes aware that any
21 one or combination of the grounds for initiating disciplinary action
22 may exist as to a person practicing osteopathic medicine in this State
23 shall, and any other person who is so aware may, file a written
24 complaint ~~[specifying the relevant facts with the Board.]~~ *pursuant*
25 *to the provisions of sections 2 to 41, inclusive, of this act.*

26 **Sec. 98.** NRS 633.533 is hereby amended to read as follows:

27 633.533 1. Any person, medical school or medical facility
28 that becomes aware that a person practicing osteopathic medicine in
29 this State has, is or is about to become engaged in conduct which
30 constitutes grounds for initiating disciplinary action shall file a
31 written complaint ~~[with the Board]~~ *pursuant to the provisions of*
32 *sections 2 to 41, inclusive, of this act* within 30 days after becoming
33 aware of the conduct.

34 2. Any hospital, clinic or other medical facility licensed in this
35 State, or medical society, shall report to the Board any change in an
36 osteopathic physician's privileges to practice osteopathic medicine
37 while the osteopathic physician is under investigation and the
38 outcome of any disciplinary action taken by that facility or society
39 against the osteopathic physician concerning the care of a patient or
40 the competency of the osteopathic physician within 30 days after the
41 change in privileges is made or disciplinary action is taken. The
42 Board shall report any failure to comply with this subsection by a
43 hospital, clinic or other medical facility licensed in this State to the
44 Health Division of the Department of Human Resources. If, after a
45 hearing, the Health Division determines that any such facility or



1 society failed to comply with the requirements of this subsection,
2 the Division may impose an administrative fine of not more than
3 \$10,000 against the facility or society for each such failure to report.
4 If the administrative fine is not paid when due, the fine must be
5 recovered in a civil action brought by the Attorney General on
6 behalf of the Division.

7 3. The clerk of every court shall report to the Board any
8 finding, judgment or other determination of the court that an
9 osteopathic physician or osteopathic physician's assistant:

10 (a) Is mentally ill;

11 (b) Is mentally incompetent;

12 (c) Has been convicted of a felony or any law governing
13 controlled substances or dangerous drugs;

14 (d) Is guilty of abuse or fraud under any state or federal program
15 providing medical assistance; or

16 (e) Is liable for damages for malpractice or negligence,

17 ➔ within 45 days after such a finding, judgment or determination is
18 made.

19 4. On or before January 15 of each year, the clerk of every
20 court shall submit to the Office of Court Administrator created
21 pursuant to NRS 1.320 a written report compiling the information
22 that the clerk reported during the previous year to the Board
23 regarding osteopathic physicians pursuant to paragraph (e) of
24 subsection 3.

25 **Sec. 99.** NRS 633.561 is hereby amended to read as follows:

26 633.561 1. ~~[[~~ *Notwithstanding the provisions of sections 2*
27 *to 41, inclusive, of this act, if* the Board or a member of the Board
28 ~~[designated to review a complaint pursuant to NRS 633.541]~~ has
29 reason to believe that the conduct of ~~[a]~~ *an osteopathic* physician
30 has raised a reasonable question as to his competence to practice
31 *osteopathic* medicine with reasonable skill and safety to patients,
32 the Board or the member designated by the Board may require the
33 ~~[person charged in the complaint]~~ *osteopathic physician* to submit
34 to a mental or physical examination by physicians designated by the
35 Board.

36 2. For the purposes of this section:

37 (a) Every physician who is licensed under this chapter who
38 accepts the privilege of practicing osteopathic medicine in this State
39 shall be deemed to have given his consent to submit to a mental or
40 physical examination if directed to do so in writing by the Board.

41 (b) The testimony or examination reports of the examining
42 physicians are not privileged communications.

43 3. Except in extraordinary circumstances, as determined by the
44 Board, the failure of a physician who is licensed under this chapter



1 to submit to an examination if directed as provided in this section
2 constitutes an admission of the charges against him.

3 **Sec. 100.** NRS 633.571 is hereby amended to read as follows:

4 633.571 ~~[[[~~ *Notwithstanding the provisions of sections 2 to*
5 *41, inclusive, of this act, if* the Board has reason to believe that the
6 conduct of any osteopathic physician has raised a reasonable
7 question as to his competence to practice osteopathic medicine with
8 reasonable skill and safety to patients, the Board may cause a
9 medical competency examination of the physician for purposes of
10 determining his fitness to practice osteopathic medicine with
11 reasonable skill and safety to patients.

12 **Sec. 101.** NRS 633.581 is hereby amended to read as follows:

13 633.581 ~~[[[~~ *Notwithstanding the provisions of sections 2 to*
14 *41, inclusive, of this act, if* the Board issues an order summarily
15 suspending the license of an osteopathic physician pending
16 proceedings for disciplinary action and requires the physician to
17 submit to a mental or physical examination or a medical
18 competency examination, the examination shall be conducted and
19 the results obtained not later than 60 days after the Board issues its
20 order.

21 **Sec. 102.** NRS 633.591 is hereby amended to read as follows:

22 633.591 ~~[[[~~ *Notwithstanding the provisions of sections 2 to*
23 *41, inclusive, of this act, if* the Board issues an order summarily
24 suspending the license of an osteopathic physician pending
25 proceedings for disciplinary action, the court shall not stay that
26 order unless the Board fails to institute and determine such
27 proceedings as promptly as the requirements for investigation of the
28 case reasonably allow.

29 **Sec. 103.** NRS 633.601 is hereby amended to read as follows:

30 633.601 1. In addition to any other remedy provided by law,
31 the Board, through its President or Secretary or the Attorney
32 General, may apply to any court of competent jurisdiction to enjoin
33 any unprofessional conduct of an osteopathic physician which is
34 harmful to the public or to limit the physician's practice or suspend
35 his license to practice medicine as provided in this section.

36 2. The court in a proper case may issue a temporary restraining
37 order or a preliminary injunction for such purposes:

38 (a) Without proof of actual damage sustained by any person, this
39 provision being a preventive as well as punitive measure; and

40 (b) Pending proceedings for disciplinary action by the Board.
41 ~~[[Such]]~~ *Notwithstanding the provisions of sections 2 to 41,*
42 *inclusive, of this act, such* proceedings shall be instituted and
43 determined as promptly as the requirements for investigation of the
44 case reasonably allow.



1 **Sec. 104.** NRS 633.621 is hereby amended to read as follows:

2 633.621 ~~[If a formal complaint is filed with the Board pursuant~~
3 ~~to NRS 633.541, the Secretary of the Board shall fix a time and~~
4 ~~place for a hearing and cause a notice of the hearing and a formal~~
5 ~~complaint to be served on the person charged at least 20 days before~~
6 ~~the date fixed for the hearing. If]~~ *Notwithstanding the provisions of*
7 *sections 2 to 41, inclusive, of this act, if* the Board receives a
8 ~~[formal complaint concerning]~~ *report pursuant to* subsection 5 of
9 NRS 228.420, ~~[such a hearing]~~ *a disciplinary proceeding regarding*
10 *the report* must be ~~[held]~~ *commenced* within 30 days after
11 ~~[receiving the formal complaint.]~~ *the Board receives the report.*

12 **Sec. 105.** NRS 633.631 is hereby amended to read as follows:

13 633.631 *Except as otherwise provided in sections 2 to 41,*
14 *inclusive, of this act:*

15 1. Service of process made under this chapter shall be either
16 personal or by registered or certified mail with return receipt
17 requested, addressed to the osteopathic physician at his last known
18 address, as indicated on the records of the Board, if possible. If
19 personal service cannot be made and if mail notice is returned
20 undelivered, the Secretary of the Board shall cause notice of hearing
21 to be published once a week for 4 consecutive weeks in a newspaper
22 published in the county of the physician's last known address or, if
23 no newspaper is published in that county, then in a newspaper
24 widely distributed in that county.

25 2. Proof of service of process or publication of notice made
26 under this chapter shall be filed with the Secretary of the Board and
27 shall be recorded in the minutes of the Board.

28 **Sec. 106.** NRS 633.641 is hereby amended to read as follows:

29 633.641 ~~[H]~~ *Notwithstanding the provisions of sections 2 to*
30 *41, inclusive, of this act, in* any disciplinary proceeding before the
31 Board:

32 1. Proof of actual injury need not be established where the
33 formal complaint charges deceptive or unethical professional
34 conduct or medical practice harmful to the public.

35 2. A certified copy of the record of a court or a licensing
36 agency showing a conviction or the suspension or revocation of a
37 license to practice osteopathic medicine is conclusive evidence of its
38 occurrence.

39 **Sec. 107.** NRS 633.651 is hereby amended to read as follows:

40 633.651 1. ~~[The person charged in a formal complaint is~~
41 ~~entitled to a hearing before the Board, but the failure of the person~~
42 ~~charged to attend his hearing or his failure to defend himself must~~
43 ~~not delay or void the proceedings. The Board may, for good cause~~
44 ~~shown, continue any hearing from time to time.~~



1 ~~—2.]~~ If the Board finds ~~[the]~~ a person guilty ~~[as charged in the~~
2 ~~formal complaint.]~~ *in a disciplinary proceeding,* it shall by order
3 take one or more of the following actions:

4 (a) Place the person on probation for a specified period or until
5 further order of the Board.

6 (b) Administer to the person a public reprimand.

7 (c) Limit the practice of the person to, or by the exclusion of,
8 one or more specified branches of osteopathic medicine.

9 (d) Suspend the license of the person to practice osteopathic
10 medicine for a specified period or until further order of the Board.

11 (e) Revoke the license of the person to practice osteopathic
12 medicine.

13 ➤ The order of the Board may contain such other terms, provisions
14 or conditions as the Board deems proper and which are not
15 inconsistent with law.

16 ~~[3.]~~ 2. The Board shall not administer a private reprimand.

17 ~~[4.]~~ 3. An order that imposes discipline and the findings of fact
18 and conclusions of law supporting that order are public records.

19 **Sec. 108.** NRS 633.681 is hereby amended to read as follows:

20 633.681 1. Any person:

21 (a) Whose practice of osteopathic medicine has been limited; or

22 (b) Whose license to practice osteopathic medicine has been:

23 (1) Suspended until further order; or

24 (2) Revoked,

25 ➤ ~~[by an order of the Board]~~ may apply to the Board after a
26 reasonable period for removal of the limitation *or suspension* or
27 ~~[restoration]~~ *may apply to the Board pursuant to the provisions of*
28 *sections 2 to 41, inclusive, of this act for reinstatement* of his
29 *revoked* license.

30 2. In hearing the application, the Board:

31 (a) May require the person to submit to a mental or physical
32 examination by physicians whom it designates and submit such
33 other evidence of changed conditions and of fitness as it deems
34 proper;

35 (b) Shall determine whether under all the circumstances the time
36 of the application is reasonable; and

37 (c) May deny the application or modify or rescind its order as it
38 deems the evidence and the public safety warrants.

39 **Sec. 109.** NRS 633.691 is hereby amended to read as follows:

40 633.691 ~~[The]~~ *In addition to any other immunity provided by*
41 *the provisions of sections 2 to 41, inclusive, of this act, the* Board,
42 a medical review panel of a hospital, or any person who or other
43 organization which initiates or assists in any lawful investigation or
44 proceeding concerning the discipline of an osteopathic physician for
45 gross malpractice, repeated malpractice, professional incompetence



1 or unprofessional conduct is immune from any civil action for such
2 initiation or assistance or any consequential damages, if the person
3 or organization acted without malicious intent.

4 **Sec. 110.** NRS 633.701 is hereby amended to read as follows:

5 633.701 The filing and review of a complaint *pursuant to the*
6 *provisions of this chapter and sections 2 to 41, inclusive, of this act*
7 and any subsequent disposition by the Board ~~[, the member~~
8 ~~designated by the Board to review a complaint pursuant to NRS~~
9 ~~633.541]~~ or any reviewing court do not preclude:

10 1. Any measure by a hospital or other institution to limit or
11 terminate the privileges of an osteopathic physician according to its
12 rules or the custom of the profession. No civil liability attaches to
13 any such action taken without malice even if the ultimate disposition
14 of the complaint is in favor of the physician.

15 2. Any appropriate criminal prosecution by the Attorney
16 General or a district attorney based upon the same or other facts.

17 **Sec. 111.** NRS 633.731 is hereby amended to read as follows:

18 633.731 ~~[The]~~ *In a manner consistent with the provisions of*
19 *sections 2 to 41, inclusive, of this act, the* Board shall cause the
20 prosecution of all persons who commit any act prohibited by this
21 chapter. The Board may employ investigators and such other
22 assistants as may be necessary to carry into effect the provisions of
23 this chapter.

24 **Sec. 112.** NRS 634.050 is hereby amended to read as follows:

25 634.050 1. Except as otherwise provided in subsection 3, all
26 money collected by the Board must be deposited in banks, credit
27 unions or savings and loan associations in the State of Nevada, and
28 must be used by the Board to defray its legitimate expenses.

29 2. ~~[The]~~ *In a manner consistent with the provisions of*
30 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
31 hearing officer or panel its authority to take any disciplinary action
32 pursuant to this chapter, impose and collect fines therefor and
33 deposit the money therefrom in banks, credit unions or savings and
34 loan associations in this State.

35 3. If a hearing officer or panel is not authorized to take
36 disciplinary action pursuant to subsection 2 and the Board deposits
37 the money collected from the imposition of fines with the State
38 Treasurer for credit to the State General Fund, it may present a
39 claim to the State Board of Examiners for recommendation to the
40 Interim Finance Committee if money is needed to pay attorney's
41 fees or the costs of an investigation, or both.

42 **Sec. 113.** NRS 634.160 is hereby amended to read as follows:

43 634.160 The Board or any of its members who become aware
44 that any one or a combination of the grounds for initiating
45 disciplinary action may exist as to a person practicing chiropractic



1 in this State shall, and any other person who is so aware may, file a
2 written complaint ~~[specifying the relevant facts with the Executive~~
3 ~~Director of the Board.] pursuant to the provisions of sections 2 to~~
4 ~~41, inclusive, of this act.~~

5 **Sec. 114.** NRS 634.170 is hereby amended to read as follows:

6 634.170 ~~[1. When a complaint is filed with the Executive~~
7 ~~Director of the Board, it must be considered by the President or a~~
8 ~~member of the Board designated by him. If, from the complaint or~~
9 ~~from other official records, it appears that the complaint may be~~
10 ~~well founded in fact, the Executive Director shall cause written~~
11 ~~notice of the charges in the complaint to be served upon the person~~
12 ~~charged at least 20 days before the date fixed for the hearing. If]~~
13 *Notwithstanding the provisions of sections 2 to 41, inclusive, of*
14 *this act, if* the Board receives a report pursuant to subsection 5 of
15 NRS 228.420, a ~~[hearing]~~ *disciplinary proceeding regarding the*
16 *report* must be ~~[held]~~ *commenced* within 30 days after ~~[receiving]~~
17 *the Board receives* the report.

18 ~~[2. If the complaint is not deemed by the President or~~
19 ~~designated member of the Board to be of sufficient import or~~
20 ~~sufficiently well founded to merit bringing proceedings against the~~
21 ~~person charged, the complaint must be held in abeyance and~~
22 ~~discussed at the next meeting of the Board.]~~

23 **Sec. 115.** NRS 634.190 is hereby amended to read as follows:

24 634.190 1. ~~[The person charged is entitled to a hearing before~~
25 ~~the Board, but the failure of the person charged to attend his hearing~~
26 ~~or his failure to defend himself does not delay or void the~~
27 ~~proceedings. The Board may, for good cause shown, continue any~~
28 ~~hearing from time to time.~~

29 ~~—2.] If the Board finds [the] a person guilty [as charged in the~~
30 ~~complaint,] in a disciplinary proceeding, it may by order:~~

31 (a) Place the person on probation for a specified period or until
32 further order of the Board.

33 (b) Administer to the person a public reprimand.

34 (c) Limit the practice of the person to, or by the exclusion of,
35 one or more specified branches of chiropractic.

36 (d) Suspend the license of the person to practice chiropractic for
37 a specified period or until further order of the Board.

38 (e) Revoke the license of the person to practice chiropractic.

39 (f) Impose a fine of not more than \$10,000, which must be
40 deposited with the State Treasurer for credit to the State General
41 Fund.

42 ➤ The order of the Board may contain such other terms, provisions
43 or conditions as the Board deems proper and which are not
44 inconsistent with law.



~~[3.]~~ 2. If the Board finds that a licensee has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[4.]~~ 3. The Board shall not administer a private reprimand.

~~[5.]~~ 4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 116. NRS 634.200 is hereby amended to read as follows:

634.200 1. Any person who has been placed on probation or whose license has been limited, suspended or revoked by the Board is entitled to judicial review of the Board's order ~~[]~~ *as provided by law.*

2. Every order of the Board which limits the practice of chiropractic or suspends or revokes a license is effective from the date the Secretary certifies the order to the proper county recorder until the order is modified or reversed by a final judgment of the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given that priority by law.

Sec. 117. NRS 634.204 is hereby amended to read as follows:

634.204 1. Any person:

(a) Whose practice of chiropractic has been limited; or

(b) Whose license to practice chiropractic has been suspended until further order or revoked,

➔ ~~[by an order of the Board]~~ may apply to the Board after a reasonable period for removal of the limitation *or suspension* or ~~[restoration]~~ *may apply to the Board pursuant to the provisions of sections 2 to 41, inclusive, of this act for reinstatement* of his *revoked* license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination by physicians or other appropriate persons whom it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrant.

Sec. 118. NRS 634.212 is hereby amended to read as follows:

634.212 1. The Board shall keep a record of its proceedings relating to licensing. ~~[and disciplinary actions.]~~ Except as otherwise provided in ~~[NRS 634.214, the]~~ *this section, such* records must be open to public inspection at all reasonable times and must contain the name, known place of business and residence, and the date and number of the license of every chiropractor licensed under this



chapter. The Board may keep such other records as it deems desirable.

2. Except as otherwise provided in this ~~{subsection,}~~ *section*, all information pertaining to the personal background, medical history or financial affairs of an applicant or licensee which the Board requires to be furnished to it under this chapter, or which it otherwise obtains, is confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or upon the order of a court of competent jurisdiction. The Board may, under procedures established by regulation, permit the disclosure of this information to any agent of the Federal Government, of another state or of any political subdivision of this State who is authorized to receive it.

3. Notice of the disclosure and the contents of the information disclosed pursuant to subsection 2 must be given to the applicant or licensee who is the subject of that information.

4. The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.

Sec. 119. NRS 634.216 is hereby amended to read as follows:

634.216 ~~{The}~~ *In addition to any other immunity provided by the provisions of sections 2 to 41, inclusive, of this act, the* Board or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of a chiropractor for gross malpractice, repeated malpractice or unprofessional conduct is immune from any civil action for that initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 120. NRS 634A.180 is hereby amended to read as follows:

634A.180 ~~{The Board shall not refuse to issue, refuse to renew, suspend or revoke any license for any of the causes enumerated in NRS 634A.170, unless the person accused has been given at least 20 days' notice in writing of the charge against him and a hearing by the Board. If}~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if* the Board receives a report pursuant to subsection 5 of NRS 228.420, a ~~{hearing}~~ *disciplinary proceeding regarding the report* must be ~~{held}~~ *commenced* within 30 days after ~~{receiving}~~ *the Board receives* the report.

Sec. 121. NRS 634A.185 is hereby amended to read as follows:

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 investigation conducted to determine whether to initiate disciplinary action are confidential.~~

~~2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.~~

~~3.] The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.~~

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

Sec. 122. NRS 634A.250 is hereby amended to read as follows:

634A.250 In addition to any other penalties prescribed by law, the Board may, after notice and a hearing ~~as required by law~~, impose upon any person who violates any provision of this chapter or the regulations adopted pursuant thereto an administrative fine of not more than \$2,500.

Sec. 123. NRS 635.130 is hereby amended to read as follows:

635.130 1. The Board, after notice and a hearing ~~as required by law~~, and upon any cause enumerated in subsection 2, may take one or more of the following disciplinary actions:

(a) Deny an application for a license or refuse to renew a license.

(b) Suspend or revoke a license.

(c) Place a licensee on probation.

(d) Impose a fine not to exceed \$5,000.

2. The Board may take disciplinary action against a licensee for any of the following causes:

(a) The making of a false statement in any affidavit required of the applicant for application, examination or licensure pursuant to the provisions of this chapter.

(b) Lending the use of the holder's name to an unlicensed person.

(c) If the holder is a podiatric physician, his permitting an unlicensed person in his employ to practice as a podiatry hygienist.

(d) Habitual indulgence in the use of alcohol or any controlled substance which impairs the intellect and judgment to such an extent as in the opinion of the Board incapacitates the holder in the performance of his professional duties.

(e) Conviction of a crime involving moral turpitude.

(f) Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.



(g) Conduct which in the opinion of the Board disqualifies him to practice with safety to the public.

(h) The commission of fraud by or on behalf of the licensee regarding his license or practice.

(i) Gross incompetency.

(j) Affliction of the licensee with any mental or physical disorder which seriously impairs his competence as a podiatric physician or podiatry hygienist.

(k) False representation by or on behalf of the licensee regarding his practice.

(l) Unethical or unprofessional conduct.

(m) Willful or repeated violations of this chapter or regulations adopted by the Board.

(n) Willful violation of the regulations adopted by the State Board of Pharmacy.

Sec. 124. NRS 635.150 is hereby amended to read as follows:

635.150 ~~[Any person against whom charges have been made shall be notified of that fact and a copy of the charges shall be sent to him by the Board. He shall be given a fair and impartial trial by the Board, whose decision shall]~~

1. A decision by the Board in a disciplinary proceeding must be made by a majority vote of ~~[its members. If]~~ the members of the Board.

2. Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if the Board receives a report pursuant to subsection 5 of NRS 228.420, a ~~[hearing]~~ disciplinary proceeding regarding the report must be ~~[held]~~ commenced within 30 days after ~~[receiving]~~ the Board receives the report.

Sec. 125. NRS 635.158 is hereby amended to read as follows:

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 investigation conducted to determine whether to initiate disciplinary action are confidential.~~

~~—2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.~~

~~—3.]~~ *The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

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



1 **Sec. 126.** NRS 635.170 is hereby amended to read as follows:

2 635.170 1. ~~[The]~~ *In addition to any other requirements set*
3 *forth in the provisions of sections 2 to 41, inclusive, of this act, the*
4 Board shall report any violation of this chapter to the district
5 attorney of the county wherein the violation occurs.

6 2. The district attorney shall promptly prosecute any person
7 violating any provision of this chapter.

8 **Sec. 127.** NRS 636.105 is hereby amended to read as follows:

9 636.105 1. The Executive Director shall make and keep:

10 (a) A record of all meetings and proceedings of the Board.

11 (b) A record of all prosecutions and violations of this chapter.

12 (c) A record of the results of all examinations of applicants.

13 (d) A register of all licensees.

14 (e) An inventory of all property of the Board and all property of
15 the State in the Board's possession.

16 2. Except as otherwise provided in ~~[NRS—636.107,]~~ *this*
17 *section*, records of the Board are subject to public inspection.

18 3. All records of the Board must be kept in the office of the
19 Board.

20 4. *The confidentiality and disclosure of any records of the*
21 *Board which relate to a complaint, investigation or disciplinary*
22 *proceeding are governed by the provisions of sections 2 to 41,*
23 *inclusive, of this act.*

24 **Sec. 128.** NRS 636.110 is hereby amended to read as follows:

25 636.110 1. Except as otherwise provided in subsection 3, all
26 money coming into possession of the Board must be deposited by
27 the Executive Director in a special fund to be expended for payment
28 of compensation and expenses of members of the Board and for
29 other necessary or proper purposes in the administration of this
30 chapter. The Executive Director shall deposit the money in banks,
31 credit unions or savings and loan associations in this State.

32 2. ~~[The]~~ *In a manner consistent with the provisions of*
33 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
34 hearing officer or panel its authority to take any disciplinary action
35 pursuant to this chapter, impose and collect administrative fines and
36 penalties therefor and forward the money therefrom to the Executive
37 Director for deposit in banks, credit unions or savings and loan
38 associations in this State.

39 3. If a hearing officer or panel is not authorized to take
40 disciplinary action pursuant to subsection 2 and the Board deposits
41 the money collected from the imposition of administrative fines and
42 penalties with the State Treasurer for credit to the State General
43 Fund, it may present a claim to the State Board of Examiners for
44 recommendation to the Interim Finance Committee if money is



needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 129. NRS 636.305 is hereby amended to read as follows:

636.305 ~~[A complaint may be made against a licensee by:~~

~~1. An agent or inspector employed by the Board;~~

~~2. Any other licensee; or~~

~~3. Any aggrieved person;~~

~~→ charging one or more of the causes for disciplinary action with such particularity as to enable the defendant licensee to prepare a defense.] Any person may file a complaint pursuant to the provisions of sections 2 to 41, inclusive, of this act.~~

Sec. 130. NRS 636.315 is hereby amended to read as follows:

636.315 ~~[1. As soon as practicable after the filing of a complaint, the Board shall notify the licensee against whom the complaint is filed and fix a date for its review of the complaint. If] Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if the Board receives a report pursuant to subsection 5 of NRS 228.420, a [hearing] disciplinary proceeding regarding the report must be [held] commenced within 30 days after [receiving] the Board receives the report. [The licensee must be allowed a reasonable amount of time to respond to the allegations of the complaint. The Executive Director shall notify the licensee of the time, date and place fixed for the Board's review of the complaint.~~

~~2. After reviewing the complaint, the Board shall dismiss the complaint or file a formal charge against the licensee. If a formal charge is filed, the Executive Director shall prepare the charge in accordance with the Board's regulations and send a copy to the licensee. The licensee must be allowed a reasonable amount of time to file a response to the charge.~~

~~3. Within a reasonable time after the Executive Director sends a copy of the charge to the licensee, the Board shall fix the time, date and place for a hearing and the Executive Director shall notify the licensee thereof.]~~

Sec. 131. NRS 636.325 is hereby amended to read as follows:

636.325 1. ~~[Upon conclusion of the hearing, or waiver thereof by the licensee against whom the charge is filed, the Board shall make and announce its decision.]~~ If the Board determines that the allegations included in ~~[the charge]~~ *a complaint* are true, it may take any one or more of the following actions:

(a) Publicly reprimand the licensee;

(b) Place the licensee on probation for a specified or unspecified period;

(c) Suspend the licensee from practice for a specified or unspecified period;

(d) Revoke the licensee's license; or



(e) Impose an administrative fine pursuant to the provisions of NRS 636.420.

➡ The Board may, in connection with a reprimand, probation or suspension, impose such other terms or conditions as it deems necessary.

2. If the Board determines that the allegations included in ~~the charge~~ *a complaint* are false or do not warrant disciplinary action, it shall dismiss the charge.

3. The Board shall not privately reprimand a licensee.

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

Sec. 132. NRS 636.340 is hereby amended to read as follows:

636.340 1. Unless a license is suspended pursuant to NRS 425.540, on or after the expiration of 6 months following the ~~revocation or~~ suspension of a license, an application may be made for the restoration of the license and the Board may, in the exercise of reasonable discretion, restore the license absolutely or upon specified conditions.

2. Following the revocation of a license, an application may be made pursuant to the provisions of sections 2 to 41, inclusive, of this act for the reinstatement of the license and the Board may, in the exercise of reasonable discretion, reinstate the license pursuant to the provisions of sections 2 to 41, inclusive, of this act.

Sec. 133. NRS 636.340 is hereby amended to read as follows:

636.340 1. On or after the expiration of 6 months following the ~~revocation or~~ suspension of a license, an application may be made for the restoration of the license and the Board may, in the exercise of reasonable discretion, restore the license absolutely or upon specified conditions.

2. Following the revocation of a license, an application may be made pursuant to the provisions of sections 2 to 41, inclusive, of this act for the reinstatement of the license and the Board may, in the exercise of reasonable discretion, reinstate the license pursuant to the provisions of sections 2 to 41, inclusive, of this act.

Sec. 134. NRS 636.375 is hereby amended to read as follows:

636.375 ~~[Any]~~ *Except as otherwise provided in sections 2 to 41, inclusive, of this act, any* notice required to be given by the Board or the Executive Director to a licensee may be transmitted by ordinary first-class, certified or registered mail, postage prepaid, addressed to the licensee at the location listed by the Executive Director for that licensee.

Sec. 135. NRS 637.060 is hereby amended to read as follows:

637.060 1. Except as otherwise provided in subsection 3, all money received by the Board under the provisions of this chapter must be deposited in banks, credit unions or savings and loan



1 associations in the State of Nevada. The money may be drawn on by
2 the Board for payment of all expenses incurred in the administration
3 of the provisions of this chapter.

4 2. ~~[The]~~ *In a manner consistent with the provisions of*
5 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
6 hearing officer or panel its authority to take any disciplinary action
7 pursuant to this chapter, impose and collect administrative fines
8 therefor and deposit the money therefrom in banks, credit unions or
9 savings and loan associations in this State.

10 3. If a hearing officer or panel is not authorized to take
11 disciplinary action pursuant to subsection 2 and the Board deposits
12 the money collected from the imposition of administrative fines with
13 the State Treasurer for credit to the State General Fund, it may
14 present a claim to the State Board of Examiners for recommendation
15 to the Interim Finance Committee if money is needed to pay
16 attorney's fees or the costs of an investigation, or both.

17 **Sec. 136.** NRS 637.085 is hereby amended to read as follows:

18 637.085 1. Except as otherwise provided in ~~[subsection 2 and~~
19 ~~NRS 637.087,]~~ *this section*, all applications for licensure, ~~[any~~
20 ~~charges filed by the Board,]~~ financial records of the Board ~~[, formal~~
21 ~~hearings on any charges heard by the Board or a panel selected by~~
22 ~~the Board,]~~ *and* records of ~~[the]~~ hearings and any order or decision
23 of the Board or *a* panel must be open to the public.

24 2. Except as otherwise provided in ~~[NRS 637.087,]~~ *this*
25 *section*, the following may be kept confidential:

26 (a) Any statement, evidence, credential or other proof submitted
27 in support of or to verify the contents of an application.

28 (b) Any report concerning the fitness of any person to receive or
29 hold a license to practice ophthalmic dispensing.

30 (c) Any communication between:

31 (1) The Board and any of its committees or panels; and

32 (2) The Board or its staff, investigators, experts, committees,
33 panels, hearing officers, advisory members or consultants and
34 counsel for the Board.

35 (d) Any other information or records in the possession of the
36 Board.

37 3. *The confidentiality and disclosure of any records of the*
38 *Board which relate to a complaint, investigation or disciplinary*
39 *proceeding are governed by the provisions of sections 2 to 41,*
40 *inclusive, of this act.*

41 4. This section does not prohibit the Board from
42 communicating or cooperating with any other licensing board or
43 agency or any agency which is investigating a licensee, including a
44 law enforcement agency.



1 **Sec. 137.** NRS 637.150 is hereby amended to read as follows:
2 637.150 1. Upon proof ~~[to the satisfaction of the Board]~~ *by*
3 *substantial evidence* that an applicant or holder of a license:

4 (a) Has been adjudicated insane;
5 (b) Habitually uses any controlled substance or intoxicant;
6 (c) Has been convicted of a crime involving moral turpitude;
7 (d) Has been convicted of violating any of the provisions of
8 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
9 inclusive;

10 (e) Has advertised in any manner which would tend to deceive,
11 defraud or mislead the public;

12 (f) Has presented to the Board any diploma, license or certificate
13 that has been signed or issued unlawfully or under fraudulent
14 representations, or obtains or has obtained a license to practice in
15 the State through fraud of any kind;

16 (g) Has been convicted of a violation of any federal or state law
17 relating to a controlled substance;

18 (h) Has violated any regulation of the Board;

19 (i) Has violated any provision of this chapter;

20 (j) Is incompetent;

21 (k) Is guilty of unethical or unprofessional conduct as
22 determined by the Board;

23 (l) Is guilty of repeated malpractice, which may be evidenced by
24 claims of malpractice settled against a practitioner; or

25 (m) Is guilty of a fraudulent or deceptive practice as determined
26 by the Board,

27 ↳ the Board may, in the case of an applicant, refuse to grant him a
28 license, or may, in the case of a holder of a license, place him on
29 probation, reprimand him publicly, require him to pay an
30 administrative fine of not more than \$10,000, suspend or revoke his
31 license, or take any combination of these disciplinary actions.

32 2. The Board shall not privately reprimand a holder of a
33 license.

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

36 **Sec. 138.** NRS 637.170 is hereby amended to read as follows:

37 637.170 1. Any licensee whose license was revoked by the
38 Board may apply for ~~[a new license pursuant to the provisions of~~
39 ~~this chapter at any time after the date of revocation. The Board may~~
40 ~~consider such an application for licensure and may grant it]~~
41 *reinstatement of the license pursuant to the provisions of sections*
42 *2 to 41, inclusive, of this act.*

43 2. *In addition to the requirements for reinstatement of the*
44 *license pursuant to sections 2 to 41, inclusive, of this act, the*
45 *Board may reinstate the license* upon the applicant's payment of a



1 fee set by the Board to cover the administrative costs of any
2 investigation and hearing.

3 **Sec. 139.** NRS 637.181 is hereby amended to read as follows:

4 637.181 *Notwithstanding the provisions of sections 2 to 41,*
5 *inclusive, of this act:*

6 1. The Board shall conduct an investigation if it receives a
7 complaint that sets forth reason to believe that a person, without the
8 proper license, is engaging in an activity for which a license is
9 required pursuant to this chapter. The complaint must be:

10 (a) Made in writing; and

11 (b) Signed and verified by the person filing the complaint.

12 2. If the Board determines that a person, without the proper
13 license, is engaging in an activity for which a license is required
14 pursuant to this chapter, the Board shall issue and serve on the
15 person an order to cease and desist engaging in the activity until
16 such time as the person obtains the proper license from the Board.

17 3. If a person upon whom an order to cease and desist is served
18 does not comply with the order within 30 days after service, the
19 Board shall, after notice and opportunity for a hearing, impose upon
20 the person an administrative fine of not more than \$10,000. The
21 imposition of an administrative fine is a final decision for the
22 purposes of judicial review.

23 4. An administrative fine imposed pursuant to this section is in
24 addition to any other penalty provided in this chapter.

25 **Sec. 140.** NRS 637A.080 is hereby amended to read as
26 follows:

27 637A.080 1. All fees provided for in this chapter must be
28 paid to the Board.

29 2. Except as otherwise provided in subsection 4, all money
30 coming into the possession of the Board must be kept or deposited
31 by the Secretary in banks, credit unions, savings and loan
32 associations or other financial institutions in this State to be
33 expended for the payment of the salaries and expenses of the
34 members and employees of the Board and for other necessary or
35 proper purposes in the administration of this chapter.

36 3. ~~[The]~~ *In a manner consistent with the provisions of*
37 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
38 hearing officer or panel its authority to take any disciplinary action
39 pursuant to this chapter, impose and collect penalties therefor and
40 deposit the money therefrom in banks, credit unions, savings and
41 loan associations or other financial institutions in this State.

42 4. If a hearing officer or panel is not authorized to take
43 disciplinary action pursuant to subsection 3 and the Board deposits
44 the money collected from the imposition of penalties with the State
45 Treasurer for credit to the State General Fund, it may present a



1 claim to the State Board of Examiners for recommendation to the
2 Interim Finance Committee if money is needed to pay attorney's
3 fees or the costs of an investigation, or both.

4 **Sec. 141.** NRS 637A.110 is hereby amended to read as
5 follows:

6 637A.110 ~~[The]~~ *In a manner consistent with the provisions of*
7 *sections 2 to 41, inclusive, of this act, the* Board may:

8 1. Appoint a technical, clerical and operational staff as may be
9 required. The number of the staff appointed must be limited by the
10 money available for that purpose in the hearing aid licensing fund.

11 2. Grant or refuse licenses for any of the causes specified in
12 this chapter.

13 3. Take disciplinary action against a licensee.

14 4. Take depositions and issue subpoenas for the purpose of any
15 hearing authorized by this chapter.

16 5. Establish reasonable educational requirements for applicants
17 and apprentices and reasonable requirements for the continuing
18 education of hearing aid specialists and apprentices.

19 **Sec. 142.** NRS 637A.250 is hereby amended to read as
20 follows:

21 637A.250 ~~[The]~~ *In a manner consistent with the provisions of*
22 *sections 2 to 41, inclusive, of this act, the* Board may take
23 disciplinary action against a licensee ~~{after a hearing which~~
24 ~~discloses that}~~ if the licensee:

25 1. Has been convicted of a felony relating to the practice of
26 hearing aid specialists.

27 2. Has been convicted of violating any of the provisions of
28 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
29 inclusive.

30 3. Obtained the license by fraud or misrepresentation.

31 4. Has made any false or fraudulent statements concerning
32 hearing aids or the business of hearing aid specialist.

33 5. Has been guilty of negligence, incompetence or
34 unprofessional conduct in his practice as a hearing aid specialist. As
35 used in this subsection, "unprofessional conduct" includes, without
36 limitation:

37 (a) Conduct which is intended to deceive or which the Board by
38 specific regulation has determined is unethical;

39 (b) Conduct which is harmful to the public or any conduct
40 detrimental to the public health or safety;

41 (c) Conduct for which disciplinary action was taken by an
42 agency of another state which is authorized to regulate the practice
43 of hearing aid specialists; and



(d) Knowingly employing, directly or indirectly, any person who is not licensed to fit or dispense hearing aids or whose license to fit or dispense hearing aids has been suspended or revoked.

6. Has loaned or transferred his license to another person.

7. Willfully violated any law of this State or any provision of this chapter regulating hearing aid specialists or the operation of an office, store or other location for dispensing hearing aids.

Sec. 143. NRS 637A.260 is hereby amended to read as follows:

637A.260 1. The Board, any of its members or any other person ~~[who believes that a licensee or other person has violated a provision of this chapter]~~ may file a complaint ~~[specifying the relevant facts with the Board. The Board may amend any such complaint to include additional allegations if it becomes aware of any additional information concerning a further violation of the provisions of this chapter.]~~

~~—2.— A complaint made against any licensee charging one or more of the causes for which his license may be revoked or suspended must be made with such particularity as to enable the licensee to prepare a defense thereto.~~

~~—3.— The complaint must be made in writing and be signed and verified by the person making it.~~

~~—4.— The]~~ *pursuant to the provisions of sections 2 to 41, inclusive, of this act.*

2. In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, the Board, on its own motion, may investigate *or cause the investigation of* the activities of an applicant for or a holder of a license issued pursuant to this chapter at any time.

Sec. 144. NRS 637A.270 is hereby amended to read as follows:

637A.270 ~~[As soon as practicable after the filing of a complaint the Board may, if the Board determines that further action is required, fix a date for the hearing thereof, which date must not be less than 20 days thereafter. If]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if* the Board receives a report pursuant to subsection 5 of NRS 228.420, a ~~[hearing]~~ *disciplinary proceeding regarding the report* must be ~~[held]~~ *commenced* within 30 days after ~~[receiving]~~ *the Board receives* the report. ~~[The Secretary shall immediately mail, by registered or certified mail, to the defendant licensee, a copy of the complaint and a notice showing the date and place fixed for the hearing.]~~



1 **Sec. 145.** NRS 637A.290 is hereby amended to read as
2 follows:

3 637A.290 1. ~~[The]~~ *In a manner consistent with the*
4 *provisions of sections 2 to 41, inclusive, of this act, the* holder of
5 any license issued by the Board ~~[whose default has been entered or~~
6 ~~who has been heard by the Board and found guilty of the violation~~
7 ~~alleged in the complaint]~~ may be disciplined by the Board by one or
8 more of the following methods:

9 (a) Placing the licensee on probation for a period not to exceed 2
10 years;

11 (b) Suspending the right of the licensee to practice, or the right
12 to use a license, for a period not to exceed 3 years;

13 (c) Revoking the license;

14 (d) Public reprimand;

15 (e) Imposition of an administrative fine not to exceed \$5,000
16 upon a finding by the Board of more than one violation;

17 (f) Requiring the licensee to pay restitution to any person who
18 has suffered an economic loss as a result of a violation of the
19 provisions of this chapter or any regulation adopted by the Board
20 pursuant thereto; or

21 (g) Requiring the licensee to retake and pass the examination or
22 otherwise demonstrate that he is qualified and competent to practice.

23 2. If a license is suspended, it must be surrendered to the Board
24 and returned to the licensee upon termination of the period of
25 suspension.

26 3. The Board shall not issue a private reprimand.

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

29 **Sec. 146.** NRS 637A.300 is hereby amended to read as
30 follows:

31 637A.300 1. If a license is revoked, it shall be surrendered to
32 the Board.

33 2. ~~[The]~~ *In a manner consistent with the provisions of*
34 *sections 2 to 41, inclusive, of this act, the* Board may, in its
35 discretion, reinstate any license after revocation upon payment of
36 the reinstatement fee as prescribed in NRS 637A.210.

37 **Sec. 147.** NRS 637A.315 is hereby amended to read as
38 follows:

39 637A.315 ~~[1.—Except as otherwise provided in this section, a~~
40 ~~complaint filed with the Board, all documents and other information~~
41 ~~filed with the complaint and all documents and other information~~
42 ~~compiled as a result of an investigation conducted to determine~~
43 ~~whether to initiate disciplinary action are confidential.~~

44 ~~2.—The complaint or other document filed by the Board to~~
45 ~~initiate disciplinary action and all documents and information~~



~~considered by the Board when determining whether to impose discipline are public records.]~~ *The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 148. NRS 637B.240 is hereby amended to read as follows:

637B.240 1. All fees collected under the provisions of this chapter must be paid to the secretary-treasurer of the Board to be used to defray the necessary expenses of the Board. The Secretary-Treasurer shall deposit the fees in qualified banks, credit unions or savings and loan associations in this State.

2. ~~[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 civil penalties therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

3. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2 and the Board deposits the money collected from the imposition of civil penalties with the State Treasurer for credit to the State General Fund, it 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. 149. NRS 637B.260 is hereby amended to read as follows:

637B.260 ~~[1.—A]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, a* complaint may be made against any applicant for a license or any licensee charging one or more of the grounds for disciplinary action . ~~[with such particularity as to enable the defendant to prepare a defense.~~

~~—2.— The complaint must be in writing and be signed and verified by the person making it.]~~

Sec. 150. NRS 637B.270 is hereby amended to read as follows:

637B.270 ~~[Not later than 15 days after the filing of a complaint, the Board shall fix a date for the hearing, which date must not be less than 20 days nor more than 45 days after the date the complaint is filed. If]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if* the Board receives a report pursuant to subsection 5 of NRS 228.420, a ~~[hearing]~~ *disciplinary proceeding regarding the report* must be ~~[held]~~ *commenced* within 30 days after ~~[receiving]~~ *the Board receives* the report. ~~[The Board shall immediately mail to the defendant, by certified mail, return~~



~~receipt requested, a copy of the complaint and a notice showing the time, date and place of the hearing.]~~

Sec. 151. NRS 637B.280 is hereby amended to read as follows:

637B.280 1. If, after ~~[the hearing,]~~ *notice and a hearing as required by law*, the Board determines that the applicant or licensee has committed any act which constitutes grounds for disciplinary action, the Board may, in the case of the applicant, refuse to issue a license, and in all other cases:

- (a) Refuse to renew a license;
- (b) Revoke a license;
- (c) Suspend a license for a definite time, not to exceed 1 year;
- (d) Administer to the licensee a public reprimand; or
- (e) Impose a civil penalty not to exceed \$1,000.

2. The Board shall not administer a private reprimand.

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

Sec. 152. NRS 637B.288 is hereby amended to read as follows:

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 an investigation conducted to determine whether to initiate disciplinary action are confidential.~~

~~—2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.]~~ *The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 153. NRS 638.017 is hereby amended to read as follows:

638.017 *Except as otherwise provided in sections 2 to 41, inclusive, of this act:*

1. Service of process made pursuant to and all notices required by this chapter must be either personal or by registered or certified mail with return receipt requested, addressed to the veterinarian, veterinary technician or applicant for a license, at his last known address, as indicated on the records of the Board. If personal service cannot be made and if notice by mail is returned undelivered, the Executive Director of the Board shall cause a notice of the hearing or action to be published once a week for 4 consecutive weeks in a newspaper published in the county of that person's last known address or, if no newspaper is published in that county, then in a newspaper widely distributed in that county.



2. Proof of service of process or publication of notice made pursuant to this chapter must be filed with the Executive Director and recorded in the minutes of the Board.

Sec. 154. NRS 638.087 is hereby amended to read as follows:

638.087 1. The Board shall keep a record of:

(a) All charges filed against a licensee;

(b) The proceedings of any formal hearing conducted by the Board or a hearing officer;

(c) Any order filed by the Board; and

(d) All licenses issued by the Board including the name of the holder of the license, his business address, the date the license was issued and the number of the license.

2. Except as otherwise provided in ~~[NRS 638.088,]~~ *this section*, the records of the Board listed in subsection 1 must be open to the public at reasonable times and places.

3. The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.

Sec. 155. NRS 638.129 is hereby amended to read as follows:

638.129 1. Any person:

(a) Whose practice of veterinary medicine has been limited; or

(b) Whose license to practice veterinary medicine has been suspended until further order or revoked,

↳ ~~[by an order of the Board,]~~ may apply to the Board after a reasonable period for removal of the limitation *or suspension* or ~~[restoration]~~ *may apply to the Board pursuant to the provisions of sections 2 to 41, inclusive, of this act for reinstatement* of his *revoked* license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination by physicians whom it designates or to an examination testing his competence by other persons whom it designates, and submit such other evidence of changed conditions and of fitness as it considers proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as the evidence warrants.

Sec. 156. NRS 638.1413 is hereby amended to read as follows:

638.1413 1. The Board or any of its members who becomes aware of any fact which may be any one or a combination of the grounds for initiating disciplinary action shall, and any other person



1 who is so aware may, file ~~[with the Board]~~ a written complaint
2 ~~[specifying the relevant facts.~~
3 ~~—2. The]~~ *pursuant to the provisions of sections 2 to 41,*
4 *inclusive, of this act.*

5 *2. In a manner consistent with the provisions of sections 2 to*
6 *41, inclusive, of this act, the* Board may, upon its own motion, ~~[and~~
7 ~~shall, upon receipt of such a complaint,]~~ *investigate or cause the*
8 *investigation of* the actions of any applicant for a license or any
9 holder of a license issued pursuant to the provisions of this chapter.

10 ~~[3. The Executive Director shall send written notice by~~
11 ~~certified mail with return receipt requested to the person being~~
12 ~~investigated. The notice must contain the name of the person who~~
13 ~~filed the complaint against the licensee, the nature of the complaint~~
14 ~~and a request for any medical records the licensee may have relating~~
15 ~~to the complaint.]~~

16 **Sec. 157.** NRS 638.1416 is hereby amended to read as
17 follows:

18 638.1416 Any person who files ~~[with the Board a verified]~~ *a*
19 *complaint pursuant to the provisions of sections 2 to 41, inclusive,*
20 *of this act* about the care given to his animal by a licensee may
21 present the animal for a physical examination. ~~[The]~~ *In a manner*
22 *consistent with the provisions of sections 2 to 41, inclusive, of this*
23 *act, the* Board may:

- 24 1. Schedule the examination at a reasonable time and place;
25 2. Notify the complainant at least 5 days before the
26 examination; and
27 3. Pay the cost of the examination.

28 **Sec. 158.** NRS 638.1423 is hereby amended to read as
29 follows:

30 638.1423 *Notwithstanding the provisions of sections 2 to 41,*
31 *inclusive, of this act:*

32 1. If the Board receives information that a veterinarian or
33 veterinary technician is causing, allowing or maintaining any
34 condition or activity which is an immediate threat to the welfare of
35 an animal, it may, without a hearing, suspend his license or prohibit
36 the use of certain procedures or any dangerous activity. The Board
37 shall notify the veterinarian or veterinary technician within 2 days
38 after taking the action.

39 2. The Board shall, within 14 days after notifying the
40 veterinarian or veterinary technician, hold an informal hearing to
41 determine if cause exists to extend the order. The veterinarian or
42 veterinary technician may present evidence at that hearing. After the
43 hearing the Board may extend the order for no more than 60 days.

44 3. The issuance or extension of the order is not an adjudication
45 on the merits. During the period of suspension, the Board shall



1 investigate further and if it decides it is necessary, hold a formal
2 hearing which must take priority over any other proceeding before
3 the Board. If the Board finds, after the formal hearing, that the
4 licensee is causing, allowing or maintaining any condition or
5 activity which is an immediate threat to the welfare of an animal, it
6 shall issue an order stating its findings and the action taken.

7 **Sec. 159.** NRS 638.144 is hereby amended to read as follows:

8 638.144 1. The Board, or a member ~~assigned to investigate a~~
9 ~~complaint,] thereof,~~ may issue subpoenas to compel the attendance
10 of witnesses and the production of books, records, papers and any
11 other article related to the practice of veterinary medicine.

12 2. If any witness refuses to attend or testify or produce any
13 article as required by the subpoena, the Board may report to the
14 district court in the county in which the hearing is pending, by
15 petition setting forth that:

16 (a) Due notice has been given of the time and place of
17 attendance of the witness or the production of the required articles;

18 (b) The witness has been subpoenaed pursuant to this section;
19 and

20 (c) The witness has failed or refused to attend or produce the
21 articles required by the subpoena, or has refused to answer questions
22 propounded to him,

23 and asking for an order of the court compelling the witness to
24 attend and testify before the Board or produce the articles as
25 required by the subpoena.

26 3. Upon receiving the petition, the court may enter an order
27 directing the witness to appear before the court at a time and place
28 to be fixed by the court in its order, the time to be not more than 10
29 days from the date of the order, and then and there show cause why
30 he has not attended or testified before the Board or produced the
31 articles as required by the subpoena. A certified copy of the order
32 must be served upon the witness.

33 4. If it appears to the court that the subpoena was regularly
34 issued by the Board, the court shall enter an order that the witness
35 appear before the Board at the time and place fixed in the order and
36 testify or produce the required articles, and upon failure to obey the
37 order the witness may be dealt with as for contempt of court.

38 **Sec. 160.** NRS 638.1445 is hereby amended to read as
39 follows:

40 638.1445 ~~[The]~~ *In a manner consistent with the provisions of*
41 *sections 2 to 41, inclusive, of this act, the* Board may request and
42 obtain a search warrant from a magistrate upon a showing that the
43 warrant is needed to carry out an order of the Board or for an
44 investigation or hearing being conducted by the Board and that
45 reasonable cause exists to issue the warrant.



1 **Sec. 161.** NRS 638.145 is hereby amended to read as follows:

2 638.145 The Board shall not refuse to issue a license to an
3 applicant or take any disciplinary action against a licensee unless the
4 Board finds, by ~~by a preponderance of the~~ *substantial* evidence, that
5 the applicant or licensee has engaged in one or more of the practices
6 prohibited by the provisions of this chapter.

7 **Sec. 162.** NRS 638.1471 is hereby amended to read as
8 follows:

9 638.1471 *Notwithstanding the provisions of sections 2 to 41,*
10 *inclusive, of this act:*

11 1. The Board may issue to a licensee a citation which may
12 contain an order of abatement or an order to pay an administrative
13 fine assessed by the Board when the licensee is in violation of any
14 provision of this chapter or any regulation adopted by the Board.

15 2. A citation must be in writing and describe with particularity
16 the nature of the violation, including specific reference to the
17 provision of law or the regulation determined to have been violated,
18 and the amount of the fine, if any. A citation must be issued for each
19 violation of this chapter or any regulation adopted by the Board.

20 3. Where appropriate, the citation must contain an order of
21 abatement fixing a reasonable time for abatement of the violation.

22 4. The administrative fine assessed by the Board must not
23 exceed \$5,000 for each violation. In assessing a fine the Board shall
24 give consideration to the appropriateness of the amount of the fine
25 with respect to such factors as the gravity of the violation, the good
26 faith of the licensee and the history of previous violations.

27 5. A citation must inform the licensee that if he desires a
28 hearing to contest the finding of a violation or the amount of the fine
29 assessed, the hearing must be requested by written notice to the
30 Board within 30 days after the date of issuance of the citation. If a
31 hearing is not requested pursuant to this section, a settlement does
32 not constitute an admission of the violation charged unless the
33 settlement agreement stipulates to such an admission.

34 6. Failure of a licensee to pay a fine within 30 days after the
35 date of assessment, unless the citation is being appealed, may result
36 in disciplinary action being taken by the Board. Where a citation is
37 not contested and a fine is not paid, the full amount of the fine that
38 is assessed must be added to the fee for renewal of the license. A
39 license must not be renewed without payment of the renewal fee and
40 fine.

41 7. Notwithstanding any other provision of law, where a fine is
42 paid to satisfy an assessment based on the finding of a violation,
43 payment of the fine constitutes a satisfactory resolution of the matter
44 for purposes of public disclosure of the disposition of the violation.



8. The Board may adopt regulations to carry out this section. It may also adopt regulations to establish similar provisions for the issuance of a citation to a person who is practicing veterinary medicine without a license.

Sec. 163. NRS 638.1473 is hereby amended to read as follows:

638.1473 1. Except as otherwise provided in subsection 4, all reasonable expenses incurred by the Board in carrying out the provisions of this chapter must be paid from the money which it receives. No part of the salaries or expenses of the Board may be paid out of the State General Fund.

2. Except as otherwise provided in this section, all money collected by the Board from the imposition of fines must be deposited with the State Treasurer for credit to the State General Fund. All other money received by the Board must be deposited in qualified banks, credit unions or savings and loan associations in this State and paid out on its order for its expenses.

3. ~~[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 banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it 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. 164. NRS 638.151 is hereby amended to read as follows:

638.151 ~~[At]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, at* all hearings the Attorney General, or an attorney employed by the Board, shall represent the Board.

Sec. 165. NRS 638.1515 is hereby amended to read as follows:

638.1515 1. ~~[H]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, in* any disciplinary proceeding : ~~[before the Board:]~~

(a) Proof of actual injury need not be established where the charge is deceptive or unethical professional conduct.

(b) If proof of actual injury is an issue, proof of actual injury may be established by the testimony and opinion of a witness who is not an expert witness.



(c) A certified copy of the record of a court or a licensing agency showing a conviction or the suspension, limitation, modification, denial or revocation of a license of a veterinarian or veterinary technician is conclusive evidence of its occurrence. A plea of nolo contendere is a conviction for the purpose of this section.

2. As used in this section, "actual injury" means any type of injury, abuse or mistreatment, whether or not the injury, abuse or mistreatment results in substantial or permanent physical harm or death.

Sec. 166. NRS 638.152 is hereby amended to read as follows:

638.152 ~~[The]~~ *In addition to any other immunity provided by the provisions of sections 2 to 41, inclusive, of this act, the* Board, a veterinary society, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning a veterinarian or veterinary technician, is immune from any civil action for that initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 167. NRS 638.153 is hereby amended to read as follows:

638.153 ~~[The]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, the* filing and review of a complaint, its dismissal without further action or its transmittal to the Attorney General, and any subsequent disposition by the Board, the Attorney General or any reviewing court do not preclude any appropriate criminal prosecution by the Attorney General or a district attorney based upon the same or other facts.

Sec. 168. NRS 638.160 is hereby amended to read as follows:

638.160 ~~[When]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, when* requested by the Board, the Attorney General or the district attorneys of the respective counties of this State shall prosecute violators of this chapter.

Sec. 169. NRS 640.070 is hereby amended to read as follows:

640.070 1. All fees collected under this chapter must be deposited by the Board in banks, credit unions or savings and loan associations in the State of Nevada.

2. All expenses incident to the operation of this chapter must be paid from the revenue derived therefrom.

3. ~~[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 and impose and collect administrative fines therefor. If the Board so delegates its authority, the Board may deposit the money from the fines in banks, credit unions or savings and loan associations in this State for the support of the Board. In



1 addition, the hearing officer or panel may assess a licensee against
2 whom disciplinary action is taken any costs and fees incurred by the
3 Board as a result of the hearing. The money from the reimbursed
4 costs and fees may also be deposited for use by the Board.

5 4. If a hearing officer or panel is not authorized to take
6 disciplinary action pursuant to subsection 3, the Board shall deposit
7 the money collected from the imposition of administrative fines with
8 the State Treasurer for credit to the State General Fund. The Board
9 may present a claim to the State Board of Examiners for
10 recommendation to the Interim Finance Committee if money is
11 needed to pay attorney's fees or the costs of an investigation, or
12 both.

13 **Sec. 170.** NRS 640.075 is hereby amended to read as follows:

14 640.075 1. ~~{Except as otherwise provided in this section, any~~
15 ~~records or information obtained during the course of an~~
16 ~~investigation by the Board and any record of the investigation are~~
17 ~~confidential.~~

18 ~~—2. The complaint or other document filed by the Board to~~
19 ~~initiate disciplinary action and all documents and information~~
20 ~~considered by the Board when determining whether to impose~~
21 ~~discipline are public records.~~

22 ~~—3. This section does not prevent or prohibit the Board from~~
23 ~~communicating or cooperating with another licensing board or any~~
24 ~~agency that is investigating a licensee, including a law enforcement~~
25 ~~agency.~~

26 ~~—4.} *The confidentiality and disclosure of any records of the*~~
27 ~~*Board which relate to a complaint, investigation or disciplinary*~~
28 ~~*proceeding are governed by the provisions of sections 2 to 41,*~~
29 ~~*inclusive, of this act.*~~

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

32 **Sec. 171.** NRS 640.160 is hereby amended to read as follows:

33 640.160 1. The Board, after notice and *a* hearing ~~{}~~ *as*
34 *required by law*, and upon any ground enumerated in subsection 2,
35 may take one or more of the following actions:

36 (a) Refuse to issue a license or temporary license to any
37 applicant.

38 (b) Refuse to renew the license or temporary license of any
39 person.

40 (c) Suspend or revoke the license or temporary license of any
41 person.

42 (d) Place any person who has been issued a license or temporary
43 license on probation.

44 (e) Impose an administrative fine which does not exceed \$5,000
45 on any person who has been issued a license.



2. The Board may take action pursuant to subsection 1 if an applicant or person who has been licensed pursuant to this chapter:

(a) Is habitually drunk or is addicted to the use of a controlled substance.

(b) Has been convicted of violating any state or federal law relating to controlled substances.

(c) Is, in the judgment of the Board, guilty of immoral or unprofessional conduct.

(d) Has been convicted of any crime involving moral turpitude.

(e) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(f) Is guilty, in the judgment of the Board, of gross negligence in his practice as a physical therapist which may be evidenced by claims of malpractice settled against a practitioner.

(g) Has obtained or attempted to obtain a license by fraud or material misrepresentation.

(h) Has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane.

(i) Has entered into any contract or arrangement which provides for the payment of an unearned fee to any person following his referral of a patient.

(j) Has employed as a physical therapist any unlicensed physical therapist or physical therapist whose license has been suspended.

(k) Has had his license to practice physical therapy suspended, revoked or in any way limited by another jurisdiction.

(l) Is determined to be professionally incompetent by the Board.

(m) Has violated any provision of this chapter or the Board's regulations.

Sec. 172. NRS 640.161 is hereby amended to read as follows:

640.161 ~~[H:] 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, inclusive, of this act.~~

Sec. 173. NRS 640.162 is hereby amended to read as follows:

640.162 ~~[1.—As soon as practicable after the Board determines that a complaint merits a hearing, the Board shall set a date for the hearing. The hearing must not be set sooner than 30 days after the date on which the respondent received notice of the complaint. If]~~
Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if the Board receives a report pursuant to subsection 5 of NRS 228.420, a ~~[hearing]~~ *disciplinary proceeding regarding the report* must be ~~[held]~~ *commenced* within 30 days after ~~[receiving]~~ *the Board receives* the report.

~~[2.—The Board's Secretary shall:~~

~~—(a) Notify the respondent that a complaint against him has been filed;~~

~~—(b) Inform him of the date, time and place set for the hearing; and~~

~~—(c) Include a copy of the complaint with the notice.~~

~~3.—The notice and complaint may be served on the respondent by delivery to him personally or by mailing to him at his last known address by registered or certified mail.~~

~~4.—If the respondent so requests, the hearing must be held within the county where he resides.]~~

Sec. 174. NRS 640.210 is hereby amended to read as follows:

640.210 1. The Board shall ~~[investigate]~~ *cause the investigation of* every supposed violation of this chapter coming to its notice and shall report to the proper district attorney all cases that in the judgment of the Board warrant prosecution.

2. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the district court of any county, on application of the Board, may issue an injunction or any other order restraining such conduct. Proceedings under this subsection shall be governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking shall be required in any action commenced by the Board.

Sec. 175. NRS 640A.200 is hereby amended to read as follows:

640A.200 1. The Board may, after notice and ~~a~~ *hearing* ~~[]~~ *as required by law*, suspend, revoke or refuse to issue or renew a license to practice as an occupational therapist or occupational therapy assistant, or may impose conditions upon the use of that license, if the Board determines that the holder of or applicant for the license is guilty of unprofessional conduct which has endangered or is likely to endanger the public health, safety or welfare. The



Board may reinstate a revoked license *pursuant to the provisions of sections 2 to 41, inclusive, of this act* upon application by the person to whom the license was issued . ~~[not less than 1 year after the license is revoked.~~

~~2. If]~~

2. *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if* the Board receives a report pursuant to subsection 5 of NRS 228.420, a ~~[hearing]~~ *disciplinary proceeding regarding the report* must be ~~[held to consider the report]~~ *commenced* within 30 days after ~~[receiving]~~ *the Board receives* the report.

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

4. As used in this section, "unprofessional conduct" includes:

(a) The obtaining of a license by fraud or through the misrepresentation or concealment of a material fact;

(b) The conviction of:

(1) A felony or gross misdemeanor relating to the practice of occupational therapy; or

(2) Any crime involving moral turpitude; and

(c) The violation of any provision of this chapter or regulation of the Board adopted pursuant to this chapter.

Sec. 176. NRS 640A.210 is hereby amended to read as follows:

640A.210 1. ~~[The]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, the* Board may conduct investigations, hold hearings and examine witnesses in carrying out its duties pursuant to this chapter. For the purposes of this chapter:

(a) Any member of the Board may administer oaths; and

(b) The Chairman of the Board may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any person fails to comply with the subpoena within 10 days after its issuance, the Chairman of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling



1 compliance with the subpoena, and upon failure to obey the order
2 the person must be dealt with as for contempt of court.

3 **Sec. 177.** NRS 640A.220 is hereby amended to read as
4 follows:

5 640A.220 ~~[1. Except as otherwise provided in this section,~~
6 ~~any records or information obtained during the course of an~~
7 ~~investigation by the Board are confidential.~~

8 ~~—2. The complaint or other document filed by the Board to~~
9 ~~initiate disciplinary action and all documents and information~~
10 ~~considered by the Board when determining whether to impose~~
11 ~~discipline are public records.]~~ *The confidentiality and disclosure of*
12 *any records of the Board which relate to a complaint, investigation*
13 *or disciplinary proceeding are governed by the provisions of*
14 *sections 2 to 41, inclusive, of this act.*

15 **Sec. 178.** NRS 640B.220 is hereby amended to read as
16 follows:

17 640B.220 1. Except as otherwise provided in subsection 4,
18 all reasonable expenses incurred by the Board in carrying out the
19 provisions of this chapter must be paid from the money that it
20 receives. No part of the expenses of the Board may be paid from the
21 State General Fund.

22 2. All money received by the Board must be deposited in a
23 bank or other financial institution in this State and paid out on its
24 order for its expenses.

25 3. ~~[The]~~ *In a manner consistent with the provisions of*
26 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
27 hearing officer or panel its authority to take any disciplinary action
28 pursuant to this chapter, impose and collect fines and penalties
29 related to that disciplinary action and deposit the money from the
30 fines and penalties in a bank or other financial institution in this
31 State.

32 4. If a hearing officer or panel is not authorized to take
33 disciplinary action pursuant to subsection 3, the Board shall deposit
34 all money collected from the imposition of fines and penalties with
35 the State Treasurer for credit to the State General Fund. If money
36 has been deposited in the State General Fund pursuant to this
37 subsection, the Board may present a claim to the State Board of
38 Examiners for recommendation to the Interim Finance Committee if
39 money is needed to pay attorney's fees or the costs of an
40 investigation, or both.

41 **Sec. 179.** NRS 640B.700 is hereby amended to read as
42 follows:

43 640B.700 1. The Board may refuse to issue a license to an
44 applicant ~~[]~~ or may take disciplinary action against a licensee ~~[]~~ if,



1 after notice and a hearing **⚡ as required by law**, the Board
2 determines that the applicant or licensee:

3 (a) Has submitted false or misleading information to the Board
4 or any agency of this State, any other state, the Federal Government
5 or the District of Columbia;

6 (b) Has violated any provision of this chapter or any regulation
7 adopted pursuant thereto;

8 (c) Has been convicted of a felony, a crime relating to a
9 controlled substance or a crime involving moral turpitude;

10 (d) Is addicted to alcohol or any controlled substance;

11 (e) Has violated the provisions of NRS 200.5093 or 432B.220;

12 (f) Is guilty of gross negligence in his practice as an athletic
13 trainer;

14 (g) Is not competent to engage in the practice of athletic
15 training;

16 (h) Has failed to provide information requested by the Board
17 within 60 days after he received the request;

18 (i) Has engaged in unethical or unprofessional conduct as it
19 relates to the practice of athletic training;

20 (j) Has been disciplined in another state, a territory or
21 possession of the United States, or the District of Columbia for
22 conduct that would be a violation of the provisions of this chapter or
23 any regulations adopted pursuant thereto if the conduct were
24 committed in this State;

25 (k) Has solicited or received compensation for services that he
26 did not provide;

27 (l) If the licensee is on probation, has violated the terms of his
28 probation; or

29 (m) Has terminated his professional services to a client in a
30 manner that detrimentally affected that client.

31 2. The Board may, if it determines that an applicant for a
32 license or a licensee has committed any of the acts set forth in
33 subsection 1, after notice and a hearing **⚡ as required by law**:

34 (a) Refuse to issue a license to the applicant;

35 (b) Refuse to renew or restore the license of the licensee;

36 (c) Suspend or revoke the license of the licensee;

37 (d) Place the licensee on probation;

38 (e) Impose an administrative fine of not more than \$5,000;

39 (f) Require the applicant or licensee to pay the costs incurred by
40 the Board to conduct the investigation and hearing; or

41 (g) Impose any combination of actions set forth in paragraphs

42 (a) to (f), inclusive.



1 **Sec. 180.** NRS 640B.720 is hereby amended to read as
2 follows:

3 640B.720 1. ~~[The]~~ *In a manner consistent with the*
4 *provisions of sections 2 to 41, inclusive, of this act, the* Board may
5 conduct investigations and hold hearings to carry out its duties
6 pursuant to the provisions of this chapter.

7 2. In such a hearing:

8 (a) Any member of the Board may administer oaths and
9 examine witnesses; and

10 (b) The Board or any member thereof may issue subpoenas to
11 compel the attendance of witnesses and the production of books and
12 papers.

13 3. Each witness who is subpoenaed to appear before the Board
14 is entitled to receive for his attendance the same fees and mileage
15 allowed by law to a witness in a civil case. The amount must be paid
16 by the party who requested the subpoena. If any witness who has not
17 been required to attend at the request of any party is subpoenaed by
18 the Board, his fees and mileage must be paid from the money of the
19 Board.

20 4. If any person fails to comply with the subpoena within 10
21 days after it is issued, the Chairman of the Board may petition a
22 court of competent jurisdiction for an order of the court compelling
23 compliance with the subpoena.

24 5. Upon such a petition, the court shall enter an order directing
25 the person subpoenaed to appear before the court at a time and place
26 to be fixed by the court in its order, the time to be not more than 10
27 days after the date of the order, and to show cause why he has not
28 complied with the subpoena. A certified copy of the order must be
29 served upon the person subpoenaed.

30 6. If it appears to the court that the subpoena was regularly
31 issued by the Board, the court shall enter an order compelling
32 compliance with the subpoena. The failure of the person to obey the
33 order is a contempt of the court that issued the order.

34 **Sec. 181.** NRS 640B.730 is hereby amended to read as
35 follows:

36 640B.730 ~~[1.—Any records or information obtained during the~~
37 ~~course of an investigation by the Board are confidential until the~~
38 ~~investigation is completed. Upon completion of the investigation,~~
39 ~~the records and information are public records if:~~

40 ~~—(a) Disciplinary action was taken by the Board as a result of the~~
41 ~~investigation; or~~

42 ~~—(b) The person who was investigated submits a written request~~
43 ~~to the Board asking that the information and records be made public~~
44 ~~records.~~



~~2. The provisions of this section do not prohibit the Board from cooperating with another licensing board or any agency that is investigating a licensee, including, without limitation, a law enforcement agency.~~ *The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 182. NRS 641.090 is hereby amended to read as follows:

641.090 1. The Secretary-Treasurer shall make and keep on behalf of the Board:

(a) A record of all its meetings and proceedings.

(b) A record of all violations and prosecutions under the provisions of this chapter.

(c) A record of all examinations of applicants.

(d) A register of all licenses.

(e) A register of all holders of licenses.

(f) An inventory of the property of the Board and of the State in the Board's possession.

2. These records must be kept in the office of the Board and, except as otherwise provided in ~~[NRS 641.255.]~~ *this section*, are subject to public inspection during normal working hours upon reasonable notice.

3. *The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

4. The Board may keep the personnel records of applicants confidential.

Sec. 183. NRS 641.125 is hereby amended to read as follows:

641.125 ~~[The]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, the* Board may hold hearings and conduct investigations related to its duties under this chapter and take evidence on any matter under inquiry before it.

Sec. 184. NRS 641.230 is hereby amended to read as follows:

641.230 The Board may suspend the license of a psychologist, place a psychologist on probation, revoke the license of a psychologist, require remediation for a psychologist or take any other action specified by regulation if the Board finds by ~~[a preponderance of the]~~ *substantial* evidence that the psychologist has:

1. Been convicted of a felony relating to the practice of psychology.

2. Been convicted of any crime or offense that reflects the inability of the psychologist to practice psychology with due regard for the health and safety of others.



3. Been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Engaged in gross malpractice or repeated malpractice or gross negligence in the practice of psychology.

5. Aided or abetted the practice of psychology by a person not licensed by the Board.

6. Made any fraudulent or untrue statement to the Board.

7. Violated a regulation adopted by the Board.

8. Had his license to practice psychology suspended or revoked or has had any other disciplinary action taken against him by another state or territory of the United States, the District of Columbia or a foreign country, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.

9. Failed to report to the Board within 30 days the revocation, suspension or surrender of, or any other disciplinary action taken against, a license or certificate to practice psychology issued to him by another state or territory of the United States, the District of Columbia or a foreign country.

10. Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision of this chapter.

11. Performed or attempted to perform any professional service while impaired by alcohol, drugs or by a mental or physical illness, disorder or disease.

12. Engaged in sexual activity with a patient.

13. Been convicted of abuse or fraud in connection with any state or federal program which provides medical assistance.

14. Been convicted of submitting a false claim for payment to the insurer of a patient.

Sec. 185. NRS 641.240 is hereby amended to read as follows:

641.240 1. If the Board ~~[,] or~~ a panel of its members ~~for a hearing officer appointed by the Board finds the~~ *finds a* person guilty ~~[as charged in the complaint,]~~ *in a disciplinary proceeding,* it may:

(a) Administer a public reprimand.

(b) Limit his practice.

(c) Suspend his license for a period of not more than 1 year.

(d) Revoke his license.

(e) Impose a fine of not more than \$5,000.

(f) Revoke or suspend his license and impose a monetary penalty.



(g) Suspend the enforcement of any penalty by placing him on probation. The Board may revoke the probation if the person does not follow any conditions imposed.

(h) Require the person to submit to the supervision of or counseling or treatment by a person designated by the Board. The person named in the complaint is responsible for any expense incurred.

(i) Impose and modify any conditions of probation for the protection of the public or the rehabilitation of the probationer.

(j) Require the person to pay for the costs of remediation or restitution.

2. The Board shall not administer a private reprimand.

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

Sec. 186. NRS 641.243 is hereby amended to read as follows:

641.243 *Except as otherwise provided in sections 2 to 41, inclusive, of this act:*

1. Service of process made under this chapter must be either upon the person or by registered or certified mail with return receipt requested, addressed to the psychologist at his last known address, as indicated on the records of the Board, if possible. If personal service cannot be made and if notice by mail is returned undelivered, the Board shall cause notice of hearing to be published once a week for 4 consecutive weeks in a newspaper published in the county of the psychologist's last known address or, if no newspaper is published in that county, then in a newspaper widely distributed in that county.

2. Proof of service of process or publication of notice made under this chapter must be filed with the Board and must be recorded in the minutes of the Board.

Sec. 187. NRS 641.250 is hereby amended to read as follows:

641.250 The Board or any of its members, any review panel of a hospital or an association of psychologists which becomes aware that any one or combination of the grounds for initiating disciplinary action may exist as to a person practicing psychology in this State shall, and any other person who is so aware may, file a written complaint ~~[specifying the relevant facts with the Board.]~~ *pursuant to the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 188. NRS 641.272 is hereby amended to read as follows:

641.272 1. ~~[If the Board determines that a complaint is not frivolous, it]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, the Board* may require the person named in ~~[the]~~ *a* complaint to submit to a mental examination conducted by a panel of three psychologists designated by the Board or a physical examination conducted by a physician designated by the Board.



2. Every psychologist licensed under this chapter who accepts the privilege of practicing psychology in this State shall be deemed to have given his consent to submit to a mental or physical examination when directed to do so in writing by the Board. The testimony or reports of the examining psychologists or physician are privileged communications, except as to proceedings conducted pursuant to this chapter.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a psychologist to submit to an examination as provided in this section constitutes grounds for the immediate suspension of his license.

Sec. 189. NRS 641.273 is hereby amended to read as follows:

641.273 ~~[[[~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if* the Board has reason to believe that the conduct of any psychologist has raised a reasonable question as to his competence to practice psychology with reasonable skill and safety to patients, the Board may require him to take a written or oral examination to determine whether he is competent to practice psychology. If an examination is required, the reasons therefor must be documented and made available to the psychologist being examined.

Sec. 190. NRS 641.274 is hereby amended to read as follows:

641.274 ~~[[[~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if* the Board, a panel of its members or a hearing officer issues an order suspending the license of a psychologist pending proceedings for disciplinary action and requires the psychologist to submit to a mental or physical examination or an examination of his competency to practice psychology, the examination must be conducted and the results obtained within 60 days after the Board, panel of its members or hearing officer issues the order.

Sec. 191. NRS 641.276 is hereby amended to read as follows:

641.276 ~~[[[~~

~~1. A complaint charging unprofessional conduct, a conviction or the suspension or revocation of a license is not frivolous; or~~

~~2. With respect to a complaint reported by the Attorney General, the Board has determined to proceed with an action authorized under this chapter;~~

~~the Board shall fix a time and place for a hearing and cause a notice of the hearing and a formal complaint prepared by the Board to be served on the person named in the complaint at least 20 days before the date fixed for the hearing. If] Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, if~~ the Board receives a report pursuant to subsection 5 of NRS 228.420, a ~~[hearing]~~ *disciplinary proceeding regarding the report* must be



1 ~~[held]~~ commenced within 30 days after ~~[receiving]~~ the Board
2 receives the report.

3 **Sec. 192.** NRS 641.285 is hereby amended to read as follows:

4 641.285 ~~[In]~~ *Notwithstanding the provisions of sections 2 to*
5 *41, inclusive, of this act, in any disciplinary proceeding :* ~~[before~~
6 ~~the Board, a panel of its members or a hearing officer;]~~

7 1. Proof of actual injury need not be established where the
8 complaint charges deceptive or unethical professional conduct or
9 practice of psychology harmful to the public.

10 2. A certified copy of the record of a court or a licensing
11 agency showing a conviction or the suspension or revocation of a
12 license to practice psychology is conclusive evidence of its
13 occurrence.

14 3. The entering of a plea of nolo contendere in a court of
15 competent jurisdiction shall be deemed a conviction of the offense
16 charged.

17 **Sec. 193.** NRS 641.314 is hereby amended to read as follows:

18 641.314 *Notwithstanding the provisions of sections 2 to 41,*
19 *inclusive, of this act:*

20 1. Pending *disciplinary* proceedings , ~~[for disciplinary action~~
21 ~~by the Board, a panel of its members or a hearing officer;]~~ the court
22 may, upon application by the Board or the Attorney General, issue a
23 temporary restraining order or a preliminary injunction to enjoin any
24 unprofessional conduct of a psychologist which is harmful to the
25 public, to limit the psychologist's practice or to suspend his license
26 to practice psychology, without proof of actual damage sustained by
27 any person, this provision being a preventive as well as a punitive
28 measure.

29 2. The *disciplinary* proceedings ~~[before the Board, a panel of~~
30 ~~its members or a hearing officer]~~ must be instituted and determined
31 as promptly as the requirements for investigation of the case
32 reasonably allow.

33 **Sec. 194.** NRS 641.318 is hereby amended to read as follows:

34 641.318 ~~[The]~~ *In addition to any other immunity provided by*
35 *the provisions of sections 2 to 41, inclusive, of this act, the* Board,
36 a review panel of a hospital, an association of psychologists or any
37 other person who or organization which initiates a complaint or
38 assists in any lawful investigation or proceeding concerning the
39 licensing of a psychologist or the discipline of a psychologist for
40 gross malpractice, repeated malpractice, professional incompetence
41 or unprofessional conduct is immune from any civil action for that
42 initiation or assistance or any consequential damages, if the person
43 or organization acted without malicious intent.

44 **Sec. 195.** NRS 641.320 is hereby amended to read as follows:

45 641.320 1. Any person:



1 (a) Whose practice of psychology has been limited;
2 (b) Whose license has been revoked; or
3 (c) Who has been placed on probation,
4 ~~↳ [by an order of the Board, a panel of its members or a hearing~~
5 ~~officer]~~ may apply to the Board after 1 year for removal of the
6 limitation or ~~[restoration]~~ *termination of the probation or may*
7 *apply to the Board pursuant to the provisions of sections 2 to 41,*
8 *inclusive, of this act for reinstatement* of his *revoked* license.

9 2. In hearing the application, the Board:

10 (a) May require the person to submit to a mental or physical
11 examination conducted by psychologists or by physicians whom it
12 designates and submit such other evidence of changed conditions
13 and of fitness as it considers proper.

14 (b) Shall determine whether under all the circumstances the time
15 of the application is reasonable.

16 (c) May deny the application or modify or rescind its order as it
17 considers the evidence and the public safety warrants.

18 **Sec. 196.** NRS 641A.191 is hereby amended to read as
19 follows:

20 641A.191 ~~[1. Except as otherwise provided in this section,~~
21 ~~any records or information obtained during the course of an~~
22 ~~investigation by the Board and any record of the investigation are~~
23 ~~confidential.~~

24 ~~2. The complaint or other document filed by the Board to~~
25 ~~initiate disciplinary action and all documents and information~~
26 ~~considered by the Board when determining whether to impose~~
27 ~~discipline are public records.~~

28 ~~3. This section does not prohibit the Board from~~
29 ~~communicating or cooperating with any other licensing board or~~
30 ~~agency or any agency which is investigating a licensee, including a~~
31 ~~law enforcement agency.]~~ *The confidentiality and disclosure of any*
32 *records of the Board which relate to a complaint, investigation or*
33 *disciplinary proceeding are governed by the provisions of sections*
34 *2 to 41, inclusive, of this act.*

35 **Sec. 197.** NRS 641A.315 is hereby amended to read as
36 follows:

37 641A.315 1. ~~[[H]]~~ *Notwithstanding the provisions of sections*
38 *2 to 41, inclusive, of this act, if* the Board or any investigative
39 committee of the Board has reason to believe that the conduct of any
40 marriage and family therapist has raised a reasonable question as to
41 his competence to practice therapy with reasonable skill and safety,
42 it may order the marriage and family therapist to undergo:

43 (a) A mental or physical examination administered by an
44 appropriately licensed provider of health care;



(b) An examination testing his competence to practice therapy;
or

(c) Any other examination designated by the Board,
to assist the Board or committee in determining the fitness of the
marriage and family therapist to practice therapy.

2. For the purposes of this section:

(a) Every therapist who applies for a license or who is licensed
pursuant to this chapter is deemed to have given his consent to
submit to any examination ordered pursuant to subsection 1 when
ordered to do so in writing by the Board.

(b) The testimony and reports of the examining provider of
health care are not privileged communications.

3. Except in extraordinary circumstances, as determined by the
Board, the failure of a therapist licensed pursuant to this chapter to
submit to an examination when ordered to do so as provided in this
section constitutes an admission of the charges against him.

4. The Board may require the marriage and family therapist to
pay the cost of the examination.

Sec. 198. NRS 641A.320 is hereby amended to read as
follows:

641A.320 1. The Board may discipline the holder of any
license ~~[whose default has been entered or who has been heard by
the Board and found guilty,]~~ by any of the following methods:

(a) Placing him upon probation for a period to be determined by
the Board.

(b) Suspending his license for not more than 1 year.

(c) Revoking his license.

(d) Administering a public reprimand.

(e) Limiting his practice.

(f) Imposing an administrative fine of not more than \$5,000.

(g) Requiring him to complete successfully another
examination.

2. The Board shall not administer a private reprimand.

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

Sec. 199. NRS 641A.330 is hereby amended to read as
follows:

641A.330 ~~[1.]~~ A complaint may be made against a licensee
~~[by an agency or inspector employed by the Board, any other
licensee or any aggrieved person, charging one or more of the
causes for which the license may be revoked or suspended with such
particularity as to enable the defendant to prepare a defense thereto.~~

~~2. A complaint must be made in writing and signed and
verified by the person making it. The original complaint and two~~



~~copies must be filed with the Secretary-Treasurer.]~~ *pursuant to the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 200. NRS 641A.400 is hereby amended to read as follows:

641A.400 ~~[One year after the date of a]~~ *After* revocation of a license, application may be made to the Board *pursuant to the provisions of sections 2 to 41, inclusive, of this act* for reinstatement. The Board has complete discretion to accept or reject an application for reinstatement and may require examination for reinstatement.

Sec. 201. NRS 641B.150 is hereby amended to read as follows:

641B.150 1. Except as otherwise provided in subsection 4, all reasonable expenses incurred by the Board in carrying out the provisions of this chapter must be paid from the money which it receives. No part of the salaries or expenses of the Board may be paid out of the State General Fund.

2. All money received by the Board must be deposited in qualified banks, credit unions or savings and loan associations in this State and paid out on its order for its expenses.

3. ~~[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 and penalties therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it 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. 202. NRS 641B.170 is hereby amended to read as follows:

641B.170 1. Except as otherwise provided in ~~[subsection 2,]~~ *this section*, any records or information received by the Board relating to a licensee or an applicant for a license are confidential.

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~~



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

4 3. This section does not prohibit the Board from providing any
5 such records or information to another licensing board or any
6 agency, including a law enforcement agency, which is investigating
7 a person licensed pursuant to this chapter.

8 *4. The confidentiality and disclosure of any records of the*
9 *Board which relate to a complaint, investigation or disciplinary*
10 *proceeding are governed by the provisions of sections 2 to 41,*
11 *inclusive, of this act.*

12 **Sec. 203.** NRS 641B.300 is hereby amended to read as
13 follows:

14 641B.300 The Board shall charge and collect fees not to
15 exceed the following amounts for:

17	Initial application	\$40
18	Provisional license	75
19	Initial issuance of a license	100
20	Annual renewal of a license	150
21	Restoration of a suspended <i>license</i> or	
22	<i>reinstatement of a</i> revoked license	150
23	Restoration of an expired license	200
24	Renewal of a delinquent license	100
25	Reciprocal license without examination	100

26 **Sec. 204.** NRS 641B.300 is hereby amended to read as
27 follows:

28 641B.300 The Board shall charge and collect fees not to
29 exceed the following amounts for:

30	Initial application	\$40
31	Provisional license	75
32	Initial issuance of a license	100
33	Annual renewal of a license	150
34	[Restoration] <i>Reinstatement</i> of a revoked license	150
35	Restoration of an expired license	200
36	Renewal of a delinquent license	100
37	Reciprocal license without examination	100

38 **Sec. 205.** NRS 641B.410 is hereby amended to read as
39 follows:

40 641B.410 The Board, any of its members or any member of a
41 review panel of social workers who becomes aware that any one or
42 combination of the grounds for initiating disciplinary action may
43 exist as to a person practicing social work in this State shall, and any
44 other person who is so aware may, file a written complaint
45 ~~[specifying the relevant facts with the Board. The complaint must~~



~~specifically charge one or more of the grounds for initiating disciplinary action.] pursuant to the provisions of sections 2 to 41, inclusive, of this act.~~

Sec. 206. NRS 641B.430 is hereby amended to read as follows:

641B.430 1. ~~[The defendant licensee must be accorded the right to appear at the hearing of a complaint conducted by the Board in person and through the representation of legal counsel. He must be given adequate opportunity to confront the witnesses against him, testify and introduce the testimony of witnesses in his behalf and submit arguments and briefs in person or through his counsel. The Board shall make and announce its decision as soon as practicable.~~

~~—2.— The failure of the person charged to attend his hearing or defend himself must not delay and does not void the proceedings. The Board may, for good cause shown, continue any hearing from time to time.~~

~~—3.] If the Board finds [the] a person guilty [as charged in the complaint, it] in a disciplinary proceeding, the Board may , by order:~~

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by exclusion of, one or more specified branches of social work.

(d) Suspend the license of the person to practice social work for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice social work.

(f) Impose a fine of not more than \$5,000, which must be deposited with the State Treasurer for credit to the State General Fund.

➤ The order of the Board may contain other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

~~[4.]~~ 2. The Board shall not administer a private reprimand.

~~[5.]~~ 3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 207. NRS 641B.450 is hereby amended to read as follows:

641B.450 ~~[No sooner than 1 year after the date his]~~ *After a* license is revoked, a licensee may apply to the Board *pursuant to the provisions of sections 2 to 41, inclusive, of this act* for its reinstatement. The Board has complete discretion to accept or reject such an application and may require successful completion of an examination as a condition of reinstatement.



1 **Sec. 208.** NRS 641C.190 is hereby amended to read as
2 follows:

3 641C.190 1. Except as otherwise provided in subsection 4,
4 all expenses incurred by the Board in carrying out the provisions of
5 this chapter must be paid from the money which it receives. No part
6 of the salaries or expenses of the Board may be paid out of the State
7 General Fund.

8 2. All money received by the Board must be deposited in a
9 bank, credit union or other financial institution in this State and paid
10 out on its order for its expenses.

11 3. ~~[The]~~ *In a manner consistent with the provisions of*
12 *sections 2 to 41, inclusive, of this act, the* Board may delegate to a
13 hearing officer or panel its authority to take any disciplinary action
14 pursuant to this chapter, impose and collect fines and penalties
15 therefor and deposit the money therefrom in a bank, credit union or
16 other financial institution in this State.

17 4. If a hearing officer or panel is not authorized to take
18 disciplinary action pursuant to subsection 3, the Board shall deposit
19 the money collected from the imposition of fines with the State
20 Treasurer for credit to the State General Fund. If money is so
21 deposited, the Board may present a claim to the State Board of
22 Examiners for recommendation to the Interim Finance Committee if
23 money is needed to pay attorney's fees or the costs of an
24 investigation, or both.

25 **Sec. 209.** NRS 641C.200 is hereby amended to read as
26 follows:

27 641C.200 1. The Board shall adopt such regulations as are
28 necessary to carry out the provisions of this chapter, including,
29 without limitation, regulations that prescribe:

30 (a) The ethical standards for licensed and certified counselors
31 and certified interns; and

32 (b) The requirements for continuing education for the renewal,
33 restoration or reinstatement of a license or certificate.

34 2. The Board may adopt regulations that prescribe:

35 (a) The contents of a written examination concerning the
36 practice of counseling problem gamblers;

37 (b) The grounds for initiating disciplinary action against a
38 certified problem gambling counselor or certified problem gambling
39 counselor intern; and

40 (c) Disciplinary procedures for certified problem gambling
41 counselors and certified problem gambling counselor interns,
42 including the suspension, revocation and reinstatement of a
43 certificate as a problem gambling counselor or problem gambling
44 counselor intern.



1 **3. Any regulations adopted by the Board pursuant to this**
2 **section must be consistent with the provisions of sections 2 to 41,**
3 **inclusive, of this act.**

4 **Sec. 210.** NRS 641C.500 is hereby amended to read as
5 follows:

6 641C.500 1. The Board may, by regulation, provide for the
7 certification of a person as a detoxification technician.

8 2. Any regulation adopted pursuant to subsection 1 **must be**
9 **consistent with the provisions of sections 2 to 41, inclusive, of this**
10 **act and** must include, without limitation, provisions relating to:

11 (a) The requirements for submitting an application for a
12 certificate, including, without limitation, the submission of a
13 complete set of fingerprints pursuant to NRS 641C.260;

14 (b) The scope of practice for a person who is issued a certificate;

15 (c) The conduct of any investigation or hearing relating to an
16 application for a certificate;

17 (d) The examination of an applicant for a certificate or a waiver
18 of examination for an applicant;

19 (e) The requirements for issuing a certificate or provisional
20 certificate;

21 (f) The duration, expiration, renewal, restoration, suspension,
22 revocation and reinstatement of a certificate;

23 (g) The grounds for refusing the issuance, renewal, restoration
24 or reinstatement of a certificate;

25 (h) The conduct of any disciplinary or other administrative
26 proceeding relating to a person who is issued a certificate;

27 (i) The filing of a complaint against a person who is issued a
28 certificate;

29 (j) The issuance of a subpoena for the attendance of witnesses
30 and the production of books, papers and records;

31 (k) The payment of fees for:

32 (1) Witnesses, mileage and attendance at a hearing or
33 deposition; and

34 (2) The issuance, renewal, restoration or reinstatement of a
35 certificate;

36 (l) The imposition of a penalty for a violation of any provision
37 of the regulations; and

38 (m) The confidentiality of any record or other information
39 maintained by the Board relating to an applicant or the holder of a
40 certificate.

41 3. A person shall not engage in any activity for which the
42 Board requires a certificate as a detoxification technician pursuant to
43 this section unless the person is the holder of such a certificate.

44 4. In addition to the provisions of subsection 2, a regulation
45 adopted pursuant to this section must include provisions that are



1 substantially similar to the requirements set forth in NRS 641C.270,
2 641C.280 and 641C.710. Any provision included in a regulation
3 pursuant to this subsection remains effective until the provisions of
4 NRS 641C.270, 641C.280 and 641C.710 expire by limitation.

5 5. Except as otherwise provided in this section and NRS
6 641C.900, 641C.910 and 641C.950, the provisions of this chapter
7 do not apply to the holder of a certificate that is issued in accordance
8 with a regulation adopted pursuant to this section.

9 6. As used in this section, "detoxification technician" means a
10 person who is certified by the Board to provide screening for the
11 safe withdrawal from alcohol and other drugs.

12 **Sec. 211.** NRS 641C.720 is hereby amended to read as
13 follows:

14 641C.720 1. The Board or any of its members who become
15 aware of any ground for initiating disciplinary action against a
16 person engaging in the practice of counseling alcohol and drug
17 abusers in this State shall, and any other person who is so aware
18 may, file a written complaint ~~[specifying the relevant facts with the~~
19 ~~Board. The complaint must specifically charge one or more of the~~
20 ~~grounds for initiating disciplinary action.~~

21 ~~—2.— As soon as practicable after the filing of the complaint, the~~
22 ~~Board shall set a date for a hearing thereon. The date must not be~~
23 ~~earlier than 30 days after the complaint is filed, except that the date~~
24 ~~may be changed upon agreement of the parties. The Board shall~~
25 ~~immediately notify the licensed or certified counselor or certified~~
26 ~~intern of the complaint and the date and place set for the hearing. A~~
27 ~~copy of the complaint must be attached to the notice.~~

28 ~~—3.— The failure of the licensed or certified counselor or certified~~
29 ~~intern to appear at the hearing does not delay or void the proceeding.~~

30 ~~—4.— The Board may, for good cause, continue a hearing from~~
31 ~~time to time.~~

32 ~~—5.—~~ *pursuant to the provisions of sections 2 to 41, inclusive, of*
33 *this act.*

34 2. If, after notice and a hearing ~~[]~~ *as required by law*, the
35 Board determines that the licensed or certified counselor or certified
36 intern has violated a provision of this chapter or any regulation
37 adopted pursuant to this chapter, it may:

38 (a) Administer a public reprimand;

39 (b) Suspend his license or certificate and impose conditions for
40 the removal of the suspension;

41 (c) Revoke his license or certificate and prescribe the
42 requirements for the reinstatement of the license or certificate;

43 (d) If he is a licensed or certified counselor, require him to be
44 supervised by another person while he engages in the practice of
45 counseling alcohol and drug abusers;



(e) Require him to participate in treatment or counseling and pay the expenses of that treatment or counseling;

(f) Require him to pay restitution to any person adversely affected by his acts or omissions;

(g) Impose a fine of not more than \$5,000; or

(h) Take any combination of the actions authorized by paragraphs (a) to (g), inclusive.

~~[6.]~~ 3. If his license or certificate is revoked or suspended pursuant to subsection ~~[5.]~~ 2, the licensed or certified counselor or certified intern may apply to the Board for ~~[a rehearing within 10 days after the license or certificate is revoked or suspended. The licensed or certified counselor or certified intern]~~ *reinstatement of the suspended license or certificate or* may apply to the Board *pursuant to the provisions of sections 2 to 41, inclusive, of this act* for reinstatement of his revoked license or certificate. ~~[not earlier than 1 year after the license or certificate is revoked.]~~ The Board may accept or reject the application and may require the successful completion of an examination as a condition of reinstatement of the license or certificate.

~~[7.]~~ 4. The Board shall not administer a private reprimand.

~~[8.]~~ 5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 212. NRS 641C.760 is hereby amended to read as follows:

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 investigation are confidential.~~

~~—2. The complaint or other document filed by the Board to initiate disciplinary action 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 confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*



Sec. 213. NRS 642.075 is hereby amended to read as follows:

642.075 1. Except as otherwise provided in subsection 4, all reasonable expenses incurred by the Board in carrying out the provisions of this chapter and chapters 451 and 452 of NRS must be paid from the money which it receives. No part of the salaries or expenses of the Board may be paid out of the State General Fund.

2. Except as otherwise provided in this section, all money collected by the Board from the imposition of fines must be deposited with the State Treasurer for credit to the State General Fund. All other money received by the Board must be deposited in qualified banks, credit unions or savings and loan associations in this State and paid out on its order for its expenses.

3. ~~[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 or chapter 451 and 452 of NRS, to impose and collect fines therefor and to deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it 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. 214. NRS 642.140 is hereby amended to read as follows:

642.140 ~~[1. Before the Board may revoke a license to practice the profession of embalming, it shall give the licensee at least 30 days' written notice of the charge against him and of the time and place of the hearing.~~

~~—2.]~~ Upon the revocation of ~~[the license.]~~ *a license to practice the profession of embalming*, the Secretary of the Board shall strike the name of the licensee from the register of licensed embalmers and notify all railroad, transportation and express companies doing business in the State of Nevada, and all licensed embalmers in this State, of that action.

Sec. 215. NRS 642.473 is hereby amended to read as follows:

642.473 1. If the Board determines that a person who holds a funeral director's license, a permit to operate a funeral establishment or a license to conduct direct cremations or immediate burials has committed any of the acts set forth in NRS 642.470, the Board may:

(a) Refuse to renew his license or permit;

(b) Revoke his license or permit;

(c) Suspend his license or permit for a definite period or until further order of the Board;



(d) Impose a fine of not more than \$5,000 for each act that constitutes a ground for disciplinary action;

(e) Place him on probation for a definite period subject to any reasonable conditions imposed by the Board;

(f) Administer a public reprimand; or

(g) Impose any combination of disciplinary actions set forth in paragraphs (a) to (f), inclusive.

~~2. [Except as otherwise provided in NRS 642.518, before the Board may refuse to renew, or suspend or revoke a license or permit for any of the acts set forth in NRS 642.470, the Board shall give at least 10 days' notice in writing to the licensee or holder of the permit. The notice must contain a brief statement of the reasons for the proposed action of the Board and designate a time and place for a hearing before any final action is taken.~~

~~—3.]~~ The Board shall not administer a private reprimand.

~~[4.]~~ 3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 216. NRS 642.500 is hereby amended to read as follows:

642.500 ~~[1. A petition for the revocation or suspension of]~~
Any person may file a complaint pursuant to the provisions of sections 2 to 41, inclusive, of this act against a person who holds 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 shall make an order fixing a time and place for a hearing on that petition which must not be less than 10 days nor more than 30 days after the presentation of the petition to the Board.~~

~~—4. Notice of the filing of the petition and the time and place of the hearing must be served upon the holder of the permit or licensee at least 10 days before the hearing. The notice may be served by any sheriff or constable or by any person appointed by the Board.]~~

Sec. 217. NRS 642.518 is hereby amended to read as follows:

642.518 *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act:*

1. If the Board finds that probable cause exists for the revocation of a license, permit or certificate issued by the Board pursuant to the provisions of this chapter or chapter 451 or 452 of NRS, and that enforcement of the provisions of this chapter or chapter 451 or 452 of NRS requires immediate suspension of the license, permit or certificate pending an investigation, the Board



1 may, upon 5 days' written notice and a preliminary hearing, enter an
2 order suspending the license, permit or certificate for a period of not
3 more than 60 days, pending a hearing upon the revocation of the
4 license, permit or certificate.

5 2. For the purposes of this section, notice shall be deemed to be
6 sufficient if the notice is personally served on the holder of the
7 license, permit or certificate or posted at the address of the holder,
8 as indicated in the records of the Board, at least 5 days before the
9 preliminary hearing.

10 3. The provisions of NRS 241.034 do not apply to any action
11 that is taken by the Board pursuant to this section.

12 **Sec. 218.** NRS 642.524 is hereby amended to read as follows:

13 642.524 ~~[1. Except as otherwise provided in this section, a~~
14 ~~complaint filed with the Board, all documents and other information~~
15 ~~filed with the complaint and all documents and other information~~
16 ~~compiled as a result of an investigation conducted to determine~~
17 ~~whether to initiate disciplinary action are confidential.~~

18 ~~—2. The complaint or other document filed by the Board to~~
19 ~~initiate disciplinary action and all documents and information~~
20 ~~considered by the Board when determining whether to impose~~
21 ~~discipline are public records.]~~ *The confidentiality and disclosure of*
22 *any records of the Board which relate to a complaint, investigation*
23 *or disciplinary proceeding are governed by the provisions of*
24 *sections 2 to 41, inclusive, of this act.*

25 **Sec. 219.** NRS 642.530 is hereby amended to read as follows:

26 642.530 1. Except as otherwise provided in subsection 2, a
27 person may seek judicial review of any final decision of the Board
28 that is made pursuant to the provisions of this chapter or chapter 451
29 or 452 of NRS. Such judicial review must be conducted ~~[pursuant to~~
30 ~~the provisions of chapter 233B of NRS that apply to a contested~~
31 ~~case.]~~ *as provided by law.*

32 2. A person may not seek judicial review of any decision of the
33 Board that orders an immediate suspension of a license, permit or
34 certificate pursuant to NRS 642.518.

35 **Sec. 220.** NRS 642.540 is hereby amended to read as follows:

36 642.540 ~~[H] Notwithstanding the provisions of sections 2 to~~
37 ~~41, inclusive, of this act, if~~ a holder of a license, permit or
38 certificate seeks judicial review of the decision of the Board to
39 revoke or suspend his license, permit or certificate, the decision of
40 the Board must not be stayed by the proceedings on judicial review
41 and the judicial review must not operate to restore the right of the
42 holder of the license, permit or certificate to operate or practice
43 pending the judicial review, unless a bond with a sufficient surety
44 approved by the clerk of the district court is posted with the clerk, in
45 such an amount as the district court may require, conditioned that



1 the judicial review will be prosecuted without unnecessary delay
2 and that, if the decision of the Board is affirmed, the holder of the
3 license, permit or certificate will pay all costs.

4 **Sec. 221.** NRS 642.557 is hereby amended to read as follows:

5 642.557 *Notwithstanding the provisions of sections 2 to 41,*
6 *inclusive, of this act:*

7 1. If the Board has reasonable cause to believe that any person
8 is violating or is threatening to or intends to violate any provision of
9 this chapter or chapter 451 or 452 of NRS, any regulation adopted
10 by the Board pursuant thereto or any order of the Board, the Board
11 may enter an order requiring the person to desist or refrain from
12 engaging in the violation.

13 2. The provisions of NRS 241.034 do not apply to any action
14 that is taken by the Board pursuant to this section.

15 **Sec. 222.** NRS 642.570 is hereby amended to read as follows:

16 642.570 ~~[The]~~ *In a manner consistent with the provisions of*
17 *sections 2 to 41, inclusive, of this act, the* Board shall cause the
18 prosecution of all persons violating any provision of this chapter or
19 chapter 451 or 452 of NRS.

20 **Sec. 223.** NRS 643.170 is hereby amended to read as follows:

21 643.170 1. The Board shall not ~~[suspend or revoke the~~
22 ~~license of any person, or]~~ refuse to issue or renew any license,
23 unless:

24 (a) Before taking that action the Board gives written notice
25 thereof to the accused stating the specific reason for its adverse
26 action; and

27 (b) The accused is granted the opportunity to appear before the
28 Board for a hearing within 20 days after the date of the notice.

29 2. The Board may:

30 (a) Summon witnesses.

31 (b) Require the production of books, records and papers for the
32 hearing.

33 3. Subpoenas must be issued by the Secretary-Treasurer of the
34 Board directed to the sheriff of the proper county to be served and
35 returned in the same manner as subpoenas in criminal cases. The
36 fees and mileage of the sheriff and witnesses must be the same as is
37 allowed in criminal cases and must be paid from the money of the
38 Board as other expenses of the Board are paid.

39 4. If the accused prevails at the hearing, the Board shall grant
40 him the proper relief without delay.

41 5. Any investigation, inquiry or hearing thus authorized may be
42 entertained or held by or before a member or members of the Board,
43 and the finding or order of the member or members, when approved
44 and confirmed by the Board, shall be deemed the finding or order of
45 the Board.



1 **Sec. 224.** NRS 643.1717 is hereby amended to read as
2 follows:

3 643.1717 1. The Board may immediately suspend a license to
4 operate a barbershop for violation of any of the applicable
5 provisions of this chapter or regulations adopted by the Board until
6 the violation is cured.

7 2. ~~[The]~~ *Except for immediate suspensions authorized*
8 *pursuant to subsection 1, the* Board may suspend or revoke a
9 license to operate a barbershop for a violation of the provisions of
10 this chapter or any regulation adopted by the Board ~~[if the Board~~
11 ~~first gives the licensee 20 days' written notice of the proposed~~
12 ~~suspension or revocation and affords the licensee a proper hearing.]~~
13 *only in a manner consistent with the provisions of sections 2 to 41,*
14 *inclusive, of this act.*

15 3. When a license to operate a barbershop has been suspended
16 or revoked for a violation of the provisions of this chapter or the
17 sanitary requirements of the Board, the Board shall post a notice on
18 the shop stating the fact of suspension or revocation and the reason
19 therefor.

20 **Sec. 225.** NRS 643.179 is hereby amended to read as follows:

21 643.179 1. The Board shall not refuse to issue or renew any
22 license to operate a barber school ~~[, or revoke or suspend any such~~
23 ~~license already issued.]~~ except upon 20 days' notice in writing to the
24 interested parties.

25 2. The notice must contain a brief statement of the reasons for
26 the contemplated action of the Board and shall designate a proper
27 time and place for the hearing of all interested parties before any
28 final action is taken.

29 3. Due notice, within the provisions of subsection 1, shall be
30 deemed to have been given when the Board deposits with the United
31 States Postal Service a copy of the notice, addressed to the
32 designated or last known residence of the person applying for the
33 license or to whom the license has already been issued.

34 **Sec. 226.** NRS 643.189 is hereby amended to read as follows:

35 643.189 ~~[1.—Except as otherwise provided in this section, a~~
36 ~~complaint filed with the Board, all documents and other information~~
37 ~~filed with the complaint and all documents and other information~~
38 ~~compiled as a result of an investigation conducted to determine~~
39 ~~whether to initiate disciplinary action are confidential.~~

40 ~~—2. The complaint or other document filed by the Board to~~
41 ~~initiate disciplinary action and all documents and information~~
42 ~~considered by the Board when determining whether to impose~~
43 ~~discipline are public records.]~~ *The confidentiality and disclosure of*
44 *any records of the Board which relate to a complaint, investigation*



or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.

Sec. 227. NRS 644.080 is hereby amended to read as follows:

644.080 The Board:

1. Shall prescribe the duties of its officers, examiners and employees, and fix the compensation of those employees.

2. May establish offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter. All records and files of the Board must be kept at the main office of the Board and, except as otherwise provided in ~~[NRS 644.446,]~~ *this subsection*, be open to public inspection at all reasonable hours. *The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

3. May adopt a seal.

4. May issue subpoenas to compel the attendance of witnesses and the production of books and papers.

Sec. 228. NRS 644.170 is hereby amended to read as follows:

644.170 1. All fees collected on behalf of the Board and all receipts of every kind and nature must be reported at the beginning of each month, for the month preceding, to the Board. At the same time, the entire amount of collections, except as otherwise provided in subsection 5, must be paid to the Treasurer of the Board, who shall deposit them in banks, credit unions or savings and loan associations in the State of Nevada.

2. The receipts must be for the uses of the Board and out of them must be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

3. All orders for payment of money must be drawn on the Treasurer of the Board and countersigned by the President and the Secretary of the Board.

4. ~~[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 banks, credit unions or savings and loan associations in this State.

5. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 4 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it 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. 229. NRS 644.440 is hereby amended to read as follows:

644.440 1. ~~[Except as otherwise provided in subsection 3, the]~~ *The* Board may refuse to issue or renew any license ~~[or revoke or suspend any license already issued,]~~ only upon 20 days' notice in writing to the interested parties. The notice must contain a brief statement of the reasons for the contemplated action of the Board and designate a proper time and place for the hearing of all interested parties before any final action is taken.

2. Notice, within the provisions of subsection 1, shall be deemed to have been given when the Board deposits with the United States Postal Service a copy of the notice, addressed to the designated or last known residence of the applicant or licensee.

3. ~~[Violations]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, violations* of any regulation of the Board for sanitation or of any statute or regulation of the State Board of Health or any county regulation concerning health may be corrected by any inspector of the Board by giving notice in the form of a citation. Any licensee receiving a citation shall immediately correct the violation or shall show that corrections have commenced. Failure to correct or to commence corrections within 72 hours after receipt of the citation subjects the license to immediate suspension. The Board may then give 20 days' notice for hearing to show cause why the license should not be permanently revoked.

4. ~~[The]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, the* closure of any establishment or school by the State Board of Health acts as an automatic revocation of the license.

Sec. 230. NRS 644.490 is hereby amended to read as follows:

644.490 1. In addition to any other ~~[penalty:]~~ *remedy or penalty:*

(a) The Board may issue a citation to a person who violates the provisions of NRS 644.190. A citation issued pursuant to this paragraph must be in writing and describe with particularity the nature of the violation. The citation also must inform the person of the provisions of subsection 2. A separate citation must be issued for each violation. If appropriate, the citation may contain an order to cease and desist.

(b) Upon finding that a person has violated the provisions of NRS 644.190, the Board shall assess an administrative fine of:

(1) For the first violation, \$500.

(2) For the second violation, \$1,000.

(3) For the third or subsequent violation, \$1,500.

2. To appeal a finding of a violation of NRS 644.190, the person must request a hearing by written notice of appeal to the Board within 30 days after the date on which the citation is issued.



1 **Sec. 231.** NRS 654.110 is hereby amended to read as follows:

2 654.110 1. ~~{The}~~ *In a manner consistent with the provisions*
3 *of sections 2 to 41, inclusive, of this act, the* Board shall:

4 (a) Develop, impose and enforce standards which must be met
5 by persons to receive licenses as nursing facility administrators or
6 administrators of residential facilities for groups. The standards
7 must be designed to ensure that nursing facility administrators or
8 persons acting as administrators of residential facilities for groups
9 will be persons who are of good character and otherwise suitable,
10 and who, by training or experience in their respective fields of
11 administering health care facilities, are qualified to serve as nursing
12 facility administrators or administrators of residential facilities for
13 groups.

14 (b) Develop and apply appropriate techniques, including
15 examinations and investigations, for determining whether a person
16 meets those standards.

17 (c) Issue licenses to persons determined, after the application of
18 appropriate techniques, to meet those standards.

19 (d) Revoke or suspend licenses previously issued by the Board
20 in any case if the person holding the license is determined
21 substantially to have failed to conform to the requirements of the
22 standards.

23 (e) Establish and carry out procedures designed to ensure that
24 persons licensed as nursing facility administrators or administrators
25 of residential facilities for groups will, during any period they serve
26 as such, comply with the requirements of the standards.

27 (f) Receive, investigate and take appropriate action with respect
28 to any charge or complaint filed with the Board to the effect that any
29 person licensed as a nursing facility administrator or an
30 administrator of a residential facility for groups has failed to comply
31 with the requirements of the standards. The Board shall initiate an
32 investigation of any charge or complaint filed with the Board within
33 30 days after receiving the charge or complaint.

34 (g) Conduct a continuing study of:

35 (1) Facilities for skilled nursing, facilities for intermediate
36 care and their administrators; and

37 (2) Residential facilities for groups and their administrators,
38 ↪ with a view to the improvement of the standards imposed for the
39 licensing of administrators and of procedures and methods for the
40 enforcement of the standards.

41 (h) Conduct or approve, or both, a program of training and
42 instruction designed to enable all persons to obtain the qualifications
43 necessary to meet the standards set by the Board for qualification as
44 a nursing facility administrator or an administrator of a residential
45 facility for groups.



2. ~~[All the]~~ *Except as otherwise provided in this subsection, all records kept by the Board, not otherwise privileged or confidential, are public records. The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

Sec. 232. NRS 654.120 is hereby amended to read as follows:

654.120 1. The Secretary of the Board shall receive and account for all money paid to the Board pursuant to this chapter. The Secretary of the Board shall deposit the money in banks, credit unions or savings and loan associations in the State of Nevada.

2. Except as otherwise provided in subsection 5, all money received by the Board pursuant to this chapter must be used to:

(a) Pay the per diem and travel expenses of the members of the Board.

(b) Pay the salaries and per diem and travel expenses of the employees of the Board.

(c) Administer the provisions of this chapter.

3. Any money which remains at the end of the fiscal year must be retained by the Board for future disbursement for the purposes enumerated in subsection 2.

4. ~~[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 and penalties therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

5. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 4 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it 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. 233. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and *a hearing* ~~[]~~ *as required by law,* impose an administrative fine of not more than \$2,500 on and suspend or revoke the license of any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.



(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing not less than 10 days before the date of the hearing.

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

Sec. 234. NRS 654.195 is hereby amended to read as follows:

654.195 1. Except as otherwise provided in subsection 2, the Board may reinstate the license of an administrator of a residential facility for groups that has been suspended by the Board if a majority of the members of the Board vote in favor of the reinstatement.

2. The Board may reinstate a license of an administrator of a residential facility for groups that has been suspended pursuant to NRS 425.540 only if the holder of the license complies with the requirements for reinstatement set forth in NRS 654.193.

3. ~~[The]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, the* Board may reinstate the license of an administrator of a residential facility for groups that has been revoked by the Board if all of the members of the Board vote in favor of reinstatement.

Sec. 235. NRS 654.195 is hereby amended to read as follows:

654.195 1. The Board may reinstate the license of an administrator of a residential facility for groups that has been suspended by the Board if a majority of the members of the Board vote in favor of the reinstatement.

2. ~~[The]~~ *In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, the* Board may reinstate the license of an administrator of a residential facility for groups that has been revoked by the Board if all of the members of the Board vote in favor of reinstatement.

Sec. 236. NRS 656.105 is hereby amended to read as follows:

~~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 are confidential.~~

~~2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information~~



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

~~—3.]~~ *The confidentiality and disclosure of any records of the Board which relate to a complaint, investigation or disciplinary proceeding are governed by the provisions of sections 2 to 41, inclusive, of this act.*

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

Sec. 237. NRS 656.250 is hereby amended to read as follows:

656.250 The Board may refuse to issue or renew or may suspend or revoke any certificate if the court reporter in performing or attempting to perform or pretending to perform any act as a court reporter has:

1. Willfully failed to take full and accurate stenographic notes of any proceedings;

2. Willfully altered any stenographic notes taken at any proceedings;

3. Willfully failed accurately to transcribe verbatim any stenographic notes taken at any proceedings;

4. Willfully altered a transcript of stenographic notes taken at any proceedings;

5. Affixed his signature to any transcript of his stenographic notes or certified to the correctness of such a transcript unless the transcript was prepared by him or was prepared under his immediate supervision;

6. Demonstrated unworthiness or incompetency to act as a court reporter in such a manner as to safeguard the interests of the public;

7. Professionally associated with or loaned his name to another for the illegal practice by another of court reporting, or professionally associated with any natural person, firm, copartnership or corporation holding itself out in any manner contrary to the provisions of this chapter;

8. Habitually been intemperate in the use of intoxicating liquor or controlled substances;

9. Except as otherwise provided in subsection 10, willfully violated any of the provisions of this chapter or the regulations adopted by the Board to enforce this chapter;

10. Violated any regulation adopted by the Board relating to unprofessional conduct;

11. Failed within a reasonable time to provide information requested ~~[by the Board]~~ as the result of a ~~[formal or informal complaint to the Board.]~~ *complaint filed pursuant to the provisions of sections 2 to 41, inclusive, of this act* which would indicate a violation of this chapter; or



12. Failed without excuse to transcribe stenographic notes of a proceeding and file a transcript of the stenographic notes:

- (a) Within the time required by law or agreed to by contract; or
- (b) Within any other reasonable time required for filing the transcript.

Sec. 238. NRS 656.253 is hereby amended to read as follows:

656.253 The Board may refuse to issue or renew or may suspend or revoke a license if, after notice and a hearing ~~and~~ *as required by law*, the Board determines that the licensee has committed any of the acts set forth in NRS 656.240 or 656.250.

Sec. 239. NRS 656.290 is hereby amended to read as follows:

656.290 1. The Board may subpoena and bring before it any person in this State and take testimony orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in courts of this State.

2. Any district court, upon the application of the accused or complainant or of the Board may, by order, require the attendance of witnesses and the production of relevant books and papers before the Board in any hearing relative to the application for or refusal, recall, suspension or revocation of a license or certificate, and the court may compel obedience to its order by proceedings for contempt.

3. ~~{The Board shall provide a court reporter to transcribe the testimony and preserve a record of all proceedings at the hearing of any case wherein a license or certificate is revoked or suspended. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board and its orders constitute the record of the proceedings. The Board shall furnish a transcript of the record to any person interested in the hearing upon payment therefor of the statutory fees for transcription as provided in NRS 3.370.~~

~~—4.~~ At any time after the suspension ~~{or revocation}~~ of any license or certificate, the Board may restore it to the accused without examination upon unanimous vote by the Board.

4. In a manner consistent with the provisions of sections 2 to 41, inclusive, of this act, after the revocation of any license or certificate, the Board may reinstate the license or certificate without examination upon unanimous vote by the Board.

Sec. 240. NRS 623.280, 623A.305, 623A.310, 623A.320, 623A.330, 623A.350, 623A.3535, 628.415, 630A.410, 630A.545, 633.025, 633.033, 633.541, 633.611, 634.193, 634.214, 634A.085, 636.107, 636.310, 636.320, 636.330, 636.335, 636.337, 637.087, 637.165, 637A.295, 637B.285, 638.088, 638.1419, 638.1429, 638.146, 638.1476, 638.1479, 640.165, 640.166, 640.167, 641.255,



1 641.270, 641.271, 641.275, 641.2755, 641.280, 641.300, 641.310,
2 641A.340, 641A.360, 641A.370, 641B.420, 641B.440, 641C.750,
3 644.445, 644.446, 654.115 and 656.280 are hereby repealed.

4 **Sec. 241.** As soon as practicable, the Governor shall appoint
5 the Commissioner of Occupational Licensing in accordance with the
6 provisions of section 17 of this act.

7 **Sec. 242.** The provisions of this act do not apply to any
8 complaint filed or disciplinary proceeding commenced before
9 October 1, 2005.

10 **Sec. 243.** 1. This section and sections 1 to 73, inclusive, 75
11 to 132, inclusive, 134 to 203, inclusive, 205 to 234, inclusive, and
12 236 to 242, inclusive, of this act become effective:

13 (a) Upon passage and approval for the purposes of allowing:

14 (1) The Governor to appoint the Commissioner of
15 Occupational Licensing; and

16 (2) The Commissioner of Occupational Licensing to adopt
17 any regulations and take any organizational, preparatory or
18 preliminary measures that are necessary to prepare the
19 Commissioner to carry out the provisions of this act; and

20 (b) On October 1, 2005, for all other purposes.

21 2. Sections 73, 132, 203 and 234 of this act expire by limitation
22 on the date on which the provisions of 42 U.S.C. § 666 requiring
23 each state to establish procedures under which the state has
24 authority to withhold or suspend, or to restrict the use of
25 professional, occupational and recreational licenses of persons who:

26 (a) Have failed to comply with a subpoena or warrant relating to
27 a proceeding to determine the paternity of a child or to establish or
28 enforce an obligation for the support of a child; or

29 (b) Are in arrears in the payment for the support of one or more
30 children,

31 ➤ are repealed by the Congress of the United States.

32 3. Sections 74, 133, 204 and 235 of this act become effective
33 on the date on which the provisions of 42 U.S.C. § 666 requiring
34 each state to establish procedures under which the state has
35 authority to withhold or suspend, or to restrict the use of
36 professional, occupational and recreational licenses of persons who:

37 (a) Have failed to comply with a subpoena or warrant relating to
38 a proceeding to determine the paternity of a child or to establish or
39 enforce an obligation for the support of a child; or

40 (b) Are in arrears in the payment for the support of one or more
41 children,

42 ➤ are repealed by the Congress of the United States.



LEADLINES OF REPEALED SECTIONS

623.280 Revocation of certificate: Notice; report of findings.

623A.305 Consideration of complaint by President of Board; recommendation to Board; action by Board.

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

623A.320 Application for rehearing.

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

623A.350 Limitations on complaints.

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

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

630A.410 Investigation of complaint by Attorney General; determination of Board concerning further action.

630A.545 Procedural requirements same for disciplinary action taken by hearing officer or panel; decision of hearing officer or panel relating to administrative fine is final decision in contested case.

633.025 "Complaint" defined.

633.033 "Formal complaint" defined.

633.541 Review of complaint by designated member of Board; investigation of complaint; formal complaint.

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.

634A.085 Duties of Board concerning written complaints; Attorney General to conduct investigation of nonfrivolous complaint; prompt determination required by Board.



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

636.310 Form, signature, verification and filing of complaint.

636.320 Public hearing of formal charge; rights of licensee.

636.330 Application for rehearing.

636.335 Rehearing: Notice to licensee; conduct; decision.

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

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.

638.1419 Conduct of investigation.

638.1429 Procedure after investigation completed.

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.

641.270 Review of complaint by Board.

641.271 Investigation of complaint by Attorney General; recommendation to Board; action by Board.



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.

641A.340 Notice of hearing.

641A.360 Decision of Board.

641A.370 Rehearing: Time for application.

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.

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

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

656.280 Disciplinary proceedings: Investigation; notice and hearing.



