

ASSEMBLY BILL NO. 65—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE BOARD OF PSYCHOLOGICAL EXAMINERS)

PREFILED DECEMBER 15, 2010

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning applied behavior analysis. (BDR 54-503)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

~

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

AN ACT relating to professions; providing for the regulation by the Board of Psychological Examiners of the practice of applied behavior analysis; providing for the discipline of behavior analysts, assistant behavior analysts and autism behavior interventionists; revising the requirements for licensure as a behavior analyst or assistant behavior analyst; revising the requirements for certification as an autism behavior interventionist; making it a crime to engage in certain conduct in connection with the practice of applied behavior analysis; revising certain provisions concerning the psychologist-patient privilege; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law vests the Board of Psychological Examiners with jurisdiction over
- 2 the licensure of behavior analysts and assistant behavior analysts and the
- 3 certification of autism behavior interventionists. (NRS 641.110) **Section 5** of this
- 4 bill defines the “practice of applied behavior analysis” as practiced by behavior
- 5 analysts, assistant behavior analysts and autism behavior interventionists, and
- 6 **section 6** of this bill declares the practice to be a learned profession to be regulated
- 7 by the Board of Psychological Examiners for the protection of the public.



Sections 8-12 and 19-35 of this bill extend the Board's existing standards and procedures for the discipline of psychologists to apply to the discipline of behavior analysts, assistant behavior analysts and autism behavior interventionists. **Sections 14 and 15** of this bill extend certain powers and duties of the Board concerning the regulation of the practice of psychology to also apply to the regulation of the practice of applied behavior analysis. **Section 16** of this bill extends certain requirements and procedures concerning applications for licensure under this chapter to also apply to applications for certification as an autism behavior interventionist. **Section 17** of this bill revises the requirements for licensure as a behavior analyst or assistant behavior analyst to provide that the academic degrees required for licensure must be earned in programs that are accredited by the Association for Behavior Analysis International. **Section 18** of this bill expands the requirements for a certificate as an autism behavior interventionist to include the completion of a practical examination developed and approved by the Board.

A person who engages in certain dishonest, fraudulent or deceptive conduct in connection with the practice of psychology is guilty of a gross misdemeanor under existing law. (NRS 641.440) **Section 37** of this bill provides that a person who engages in comparable conduct in connection with the practice of applied behavior analysis is also guilty of a gross misdemeanor.

Section 38 of this bill revises the definition of "patient" as used for the purposes of the psychologist-patient privilege in consequence of the change to the definition of "patient" made by **section 11** for the purposes of regulating the practice of applied behavior analysis.

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

Section 1. Chapter 641 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as an assistant behavior analyst by the Board.*

Sec. 3. *"Autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board.*

Sec. 4. *"Behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as a behavior analyst by the Board.*

Sec. 5. *"Practice of applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to*



1 *produce socially significant improvement in human behavior,*
2 *including, without limitation, the use of direct observation,*
3 *measurement and functional analysis of the relations between*
4 *environment and behavior. The term includes the provision of*
5 *behavioral therapy by a behavior analyst, assistant behavior*
6 *analyst or autism behavior interventionist.*

7 **Sec. 6.** NRS 641.010 is hereby amended to read as follows:

8 641.010 **1.** The practice of psychology is hereby declared to
9 be a learned profession, affecting public safety, health and welfare
10 and subject to regulation to protect the public from the practice of
11 psychology by unqualified persons and from unprofessional conduct
12 by persons licensed to practice psychology.

13 **2.** *The practice of applied behavior analysis is hereby*
14 *declared to be a learned profession, affecting public safety, health*
15 *and welfare and subject to regulation to protect the public from*
16 *the practice of applied behavior analysis by unqualified persons*
17 *and from unprofessional conduct by persons licensed or certified*
18 *to practice applied behavior analysis.*

19 **Sec. 7.** NRS 641.020 is hereby amended to read as follows:

20 641.020 As used in this chapter, unless the context otherwise
21 requires, the words and terms defined in NRS 641.021 to 641.027,
22 inclusive, *and sections 2 to 5, inclusive, of this act* and 689A.0435
23 have the meanings ascribed to them in those sections.

24 **Sec. 8.** NRS 641.022 is hereby amended to read as follows:

25 641.022 "Community" means the entire area customarily
26 served by *the respective* psychologists, *behavior analysts, assistant*
27 *behavior analysts or autism behavior interventionists* among
28 whom a patient may reasonably choose, not merely the particular
29 area inhabited by the patients of an individual psychologist,
30 *behavior analyst, assistant behavior analyst or autism behavior*
31 *interventionist* or the particular city or place where the psychologist
32 *, behavior analyst, assistant behavior analyst or autism behavior*
33 *interventionist* has his or her office.

34 **Sec. 9.** NRS 641.023 is hereby amended to read as follows:

35 641.023 "Gross malpractice" means malpractice where the
36 failure to exercise the requisite degree of care, diligence or skill
37 consists of:

38 1. Practicing psychology ~~for~~, psychotherapy *or applied*
39 *behavior analysis* with a patient while the psychologist, *behavior*
40 *analyst, assistant behavior analyst or autism behavior*
41 *interventionist* is under the influence of an alcoholic beverage as
42 defined in NRS 202.015 or any controlled substance;

43 2. Gross negligence;



3. Willful disregard of established methods and procedures in the practice of psychology ~~[:]~~ *or the practice of applied behavior analysis*; or

4. Willful and consistent use of methods and procedures considered by psychologists *or behavior analysts* in ~~[the community]~~ *their respective communities* to be inappropriate or unnecessary in the cases where used.

Sec. 10. NRS 641.024 is hereby amended to read as follows:

641.024 "Malpractice" means failure on the part of a psychologist, *behavior analyst, assistant behavior analyst or autism behavior interventionist* to exercise the degree of care, diligence and skill ordinarily exercised by psychologists, *behavior analysts, assistant behavior analysts or autism behavior interventionists* in good standing in ~~[the community]~~ *their respective communities*.

Sec. 11. NRS 641.0245 is hereby amended to read as follows:

641.0245 "Patient" means a person who consults or is examined or interviewed by a psychologist, *behavior analyst, assistant behavior analyst or autism behavior interventionist* for purposes of diagnosis or treatment.

Sec. 12. NRS 641.026 is hereby amended to read as follows:

641.026 "Professional incompetence" means lack of ability to practice psychology *or applied behavior analysis* safely and skillfully arising from:

1. Lack of knowledge or training;
2. Impaired physical or mental ability; or
3. Dependence upon an alcoholic beverage as defined in NRS 202.015 or any controlled substance.

Sec. 13. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A person who is licensed to practice dentistry in this State;
3. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;
4. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;
5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;
6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;
7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse



1 counselor or certified as an alcohol and drug abuse counselor intern,
2 a clinical alcohol and drug abuse counselor intern, a problem
3 gambling counselor or a problem gambling counselor intern,
4 pursuant to chapter 641C of NRS; or

5 8. Any member of the clergy,
6 ➔ if such a person does not commit an act described in NRS
7 641.440 or represent himself or herself as a psychologist **[H]** ,
8 *behavior analyst, assistant behavior analyst or autism behavior*
9 *interventionist.*

10 **Sec. 14.** NRS 641.090 is hereby amended to read as follows:

11 641.090 1. The Secretary-Treasurer shall make and keep on
12 behalf of the Board:

13 (a) A record of all its meetings and proceedings.

14 (b) A record of all violations and prosecutions under the
15 provisions of this chapter.

16 (c) A record of all examinations of applicants.

17 (d) A register of all licenses **[H]** *and certificates issued by the*
18 *Board.*

19 (e) A register of all holders of licenses **[H]** *and certificates issued*
20 *by the Board.*

21 (f) An inventory of the property of the Board and of the State in
22 the Board's possession.

23 2. These records must be kept in the office of the Board and,
24 except as otherwise provided in this section, are subject to public
25 inspection during normal working hours upon reasonable notice.

26 3. Except as otherwise provided in NRS 239.0115, the Board
27 may keep the personnel records of applicants confidential.

28 4. Except as otherwise provided in this section and NRS
29 239.0115, a complaint filed with the Board, all documents and other
30 information filed with the complaint and all documents and other
31 information compiled as a result of an investigation conducted to
32 determine whether to initiate disciplinary action against a person are
33 confidential, unless the person submits a written statement to the
34 Board requesting that such documents and information be made
35 public records.

36 5. The charging documents filed with the Board to initiate
37 disciplinary action pursuant to chapter 622A of NRS and all other
38 documents and information considered by the Board when
39 determining whether to impose discipline are public records.

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



Sec. 15. NRS 641.100 is hereby amended to read as follows:

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination, licensure and certification of applicants, the granting, refusal, revocation or suspension of licenses and certificates , ~~and~~ the practice of psychology ~~and~~ *the practice of applied behavior analysis.*

Sec. 16. NRS 641.160 is hereby amended to read as follows:

641.160 1. Each person desiring a license *or certificate* must:

(a) Make application to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and include all information required to complete the application.

(b) As part of the application and at his or her own expense:

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Board; and

(2) Submit to the Board:

(I) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Board, stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background.

2. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Board deems necessary; and



(b) Request from each agency to which the Board submits the fingerprints any information regarding the applicant's background as the Board deems necessary.

3. An application is not considered complete and received for purposes of evaluation pursuant to subsection 4 of NRS 641.170 until the Board receives a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section.

Sec. 17. NRS 641.170 is hereby amended to read as follows:

641.170 1. Each application for licensure as a psychologist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. Each application for licensure as a behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a master's degree from ~~an~~ *a program accredited ~~college or university~~ by the Association for Behavior Analysis International* in a field of social science or special education approved by the Board.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:



- 1 (a) Is at least 21 years of age.
- 2 (b) Is of good moral character as determined by the Board.
- 3 (c) Is a citizen of the United States, or is lawfully entitled to
- 4 remain and work in the United States.
- 5 (d) Has earned a bachelor's degree from ~~an~~ *a program*
- 6 accredited ~~college or university~~ *by the Association for Behavior*
- 7 *Analysis International* in a field of social science or special
- 8 education approved by the Board.
- 9 (e) Has completed other education, training or experience in
- 10 accordance with the requirements established by regulations of the
- 11 Board.
- 12 (f) Has completed satisfactorily a written examination in Nevada
- 13 law and ethical practice as administered by the Board.
- 14 4. Within 120 days after receiving an application and the
- 15 accompanying evidence from an applicant, the Board shall:
- 16 (a) Evaluate the application and accompanying evidence and
- 17 determine whether the applicant is qualified pursuant to this section
- 18 for licensure; and
- 19 (b) Issue a written statement to the applicant of its
- 20 determination.
- 21 5. The written statement issued to the applicant pursuant to
- 22 subsection 4 must include:
- 23 (a) If the Board determines that the qualifications of the
- 24 applicant are insufficient for licensure, a detailed explanation of the
- 25 reasons for that determination.
- 26 (b) If the applicant for licensure as a psychologist has not earned
- 27 a doctorate in psychology from an accredited educational institution
- 28 approved by the Board and the Board determines that the doctorate-
- 29 level training from an accredited educational institution is not
- 30 equivalent in subject matter and extent of training, a detailed
- 31 explanation of the reasons for that determination.
- 32 **Sec. 18.** NRS 641.172 is hereby amended to read as follows:
- 33 641.172 1. Each application for certification as an autism
- 34 behavior interventionist must be accompanied by evidence
- 35 satisfactory to the Board that the applicant:
- 36 (a) Is at least 18 years of age.
- 37 (b) Is of good moral character as determined by the Board.
- 38 (c) Is a citizen of the United States, or is lawfully entitled to
- 39 remain and work in the United States.
- 40 (d) Has completed satisfactorily a written examination in
- 41 Nevada law and ethical practice as administered by the Board.
- 42 *(e) Has completed satisfactorily a standardized practical*
- 43 *examination developed and approved by the Board. The*
- 44 *examination must be conducted by the applicant's supervisor, who*
- 45 *shall make a videotape or other audio and visual recording of the*



1 *applicant's performance of the examination for submission to the*
2 *Board. The Board may review the recording as part of its*
3 *evaluation of the applicant's qualifications.*

4 2. Within 120 days after receiving an application and the
5 accompanying evidence from an applicant, the Board shall:

6 (a) Evaluate the application and accompanying evidence and
7 determine whether the applicant is qualified pursuant to this section
8 for certification as an autism behavior interventionist; and

9 (b) Issue a written statement to the applicant of its
10 determination.

11 3. If the Board determines that the qualifications of the
12 applicant are insufficient for certification, the written statement
13 issued to the applicant pursuant to subsection 2 must include a
14 detailed explanation of the reasons for that determination.

15 **Sec. 19.** NRS 641.225 is hereby amended to read as follows:

16 641.225 1. Except as otherwise provided in subsection 2, a
17 psychologist , *behavior analyst, assistant behavior analyst or*
18 *autism behavior interventionist* may practice only under the name
19 that appears on the license ~~{to practice psychology}~~ *or certificate*
20 issued to ~~{the psychologist}~~ *him or her* by the Board.

21 2. A psychologist may associate with a firm, partnership or
22 corporation which engages in or offers to engage in the practice of
23 psychology if:

24 (a) The firm, partnership or corporation is registered with the
25 Board; and

26 (b) The name and license of each psychologist associated with
27 the firm, partnership or corporation is displayed conspicuously at
28 the place where he or she practices psychology.

29 **Sec. 20.** NRS 641.230 is hereby amended to read as follows:

30 641.230 The Board may suspend ~~{the}~~ *or revoke a person's*
31 license ~~{of}~~ *as a psychologist, behavior analyst or assistant*
32 *behavior analyst or certificate as an autism behavior*
33 *interventionist,* place ~~{a psychologist}~~ *the person* on probation,
34 ~~{revoke the license of a psychologist,}~~ require remediation for ~~{a~~
35 ~~psychologist}~~ *the person* or take any other action specified by
36 regulation if the Board finds by substantial evidence that the
37 ~~{psychologist}~~ *person* has:

38 1. Been convicted of a felony relating to the practice of
39 psychology ~~{}~~ *or the practice of applied behavior analysis.*

40 2. Been convicted of any crime or offense that reflects the
41 inability of the ~~{psychologist}~~ *person* to practice psychology *or*
42 *applied behavior analysis* with due regard for the health and safety
43 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 ~~[-]~~ *or the practice of applied behavior analysis.*

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 a license to practice psychology *or a license or certificate to practice applied behavior analysis* suspended or revoked or has had any other disciplinary action taken against the ~~[psychologist]~~ *person* 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 *or applied behavior analysis* issued to the ~~[psychologist]~~ *person* 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.

15. Operated a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility was suspended or revoked; or

(b) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 21. NRS 641.240 is hereby amended to read as follows:

641.240 1. If the Board, a panel of its members or a hearing officer appointed by the Board finds a person guilty in a disciplinary proceeding, it may:



- 1 (a) Administer a public reprimand.
- 2 (b) Limit the person's practice.
- 3 (c) Suspend the *person's* license *or certificate* for a period of
- 4 not more than 1 year.
- 5 (d) Revoke the *person's* license ~~H~~ *or certificate*.
- 6 (e) Impose a fine of not more than \$5,000.
- 7 (f) Revoke or suspend the *person's* license *or certificate* and
- 8 impose a monetary penalty.
- 9 (g) Suspend the enforcement of any penalty by placing the
- 10 person on probation. The Board may revoke the probation if the
- 11 person does not follow any conditions imposed.
- 12 (h) Require the person to submit to the supervision of or
- 13 counseling or treatment by a person designated by the Board. The
- 14 person named in the complaint is responsible for any expense
- 15 incurred.
- 16 (i) Impose and modify any conditions of probation for the
- 17 protection of the public or the rehabilitation of the probationer.
- 18 (j) Require the person to pay for the costs of remediation or
- 19 restitution.

20 2. The Board shall not administer a private reprimand.

21 3. An order that imposes discipline and the findings of fact and

22 conclusions of law supporting that order are public records.

23 **Sec. 22.** NRS 641.243 is hereby amended to read as follows:

24 641.243 Except as otherwise provided in chapter 622A of

25 NRS:

26 1. Service of process made under this chapter must be either

27 upon the person or by registered or certified mail with return receipt

28 requested, addressed to the ~~[psychologist]~~ *licensee or certificate*

29 *holder* at his or her last known address, as indicated on the records

30 of the Board, if possible. If personal service cannot be made and if

31 notice by mail is returned undelivered, the Board shall cause notice

32 of hearing to be published once a week for 4 consecutive weeks in a

33 newspaper published in the county of the ~~[psychologist's]~~ *licensee's*

34 *or certificate holder's* last known address or, if no newspaper is

35 published in that county, then in a newspaper widely distributed in

36 that county.

37 2. Proof of service of process or publication of notice made

38 under this chapter must be filed with the Board and must be

39 recorded in the minutes of the Board.

40 **Sec. 23.** NRS 641.245 is hereby amended to read as follows:

41 641.245 1. The Board, any member thereof, a panel of its

42 members or a hearing officer may issue subpoenas to compel the

43 attendance of witnesses and the production of books, papers,

44 documents, the records of patients, and any other article related to



1 the practice of psychology ~~[H]~~ *or the practice of applied behavior*
2 *analysis.*

3 2. If any witness refuses to attend or testify or produce any
4 article as required by the subpoena, the Board may file a petition
5 with the district court stating that:

6 (a) Due notice has been given for the time and place of
7 attendance of the witness or the production of the required articles;

8 (b) The witness has been subpoenaed pursuant to this section;
9 and

10 (c) The witness has failed or refused to attend or produce the
11 articles required by the subpoena or has refused to answer questions
12 propounded to him or her,

13 and asking for an order of the court compelling the witness to
14 attend and testify before the Board, a panel of its members or a
15 hearing officer, or produce the articles as required by the subpoena.

16 3. Upon such a petition, the court shall enter an order directing
17 the witness to appear before the court at a time and place to be fixed
18 by the court in its order, the time to be not more than 10 days after
19 the date of the order, and then and there show cause why the witness
20 has not attended or testified or produced the articles. A certified
21 copy of the order must be served upon the witness.

22 4. If it appears to the court that the subpoena was regularly
23 issued, the court shall enter an order that the witness appear before
24 the Board, a panel of its members or a hearing officer at the time
25 and place fixed in the order and testify or produce the required
26 articles, and upon failure to obey the order the witness must be dealt
27 with as for contempt of court.

28 **Sec. 24.** NRS 641.250 is hereby amended to read as follows:

29 641.250 1. The Board or any of its members, any review
30 panel of a hospital , ~~[or]~~ an association of psychologists *or an*
31 *association of persons who practice applied behavior analysis*
32 which becomes aware that any one or combination of the grounds
33 for initiating disciplinary action may exist as to a person practicing
34 psychology *or applied behavior analysis* in this State shall, and any
35 other person who is so aware may, file a written complaint
36 specifying the relevant facts with the Board.

37 2. The Board shall retain all complaints filed with the Board
38 pursuant to this section for at least 10 years, including, without
39 limitation, any complaints not acted upon.

40 **Sec. 25.** NRS 641.271 is hereby amended to read as follows:

41 641.271 1. The Attorney General shall conduct an
42 investigation of each complaint transmitted to him or her by the
43 Board to determine whether it warrants proceedings for the
44 modification, suspension or revocation of ~~[the]~~ *a person's* license ~~[H]~~
45 *or certificate.* If the Attorney General determines that further



1 proceedings are warranted, he or she shall report the results of the
2 investigation together with a recommendation to the Board in a
3 manner which does not violate the right of the person charged in the
4 complaint to due process in any later hearing on the complaint.

5 2. The Board shall promptly make a determination with respect
6 to each complaint reported to it by the Attorney General. The Board
7 shall:

8 (a) Dismiss the complaint; or

9 (b) Proceed with appropriate disciplinary action.

10 **Sec. 26.** NRS 641.272 is hereby amended to read as follows:

11 641.272 1. Notwithstanding the provisions of chapter 622A
12 of NRS, the Board may require the person named in a complaint to
13 submit to a mental examination conducted by a panel of three
14 psychologists designated by the Board or a physical examination
15 conducted by a physician designated by the Board.

16 2. Every ~~psychologist~~ *person* licensed ~~under~~ *or certified*
17 *pursuant to* this chapter who accepts the privilege of practicing
18 psychology *or applied behavior analysis* in this State shall be
19 deemed to have given consent to submit to a mental or physical
20 examination when directed to do so in writing by the Board. The
21 testimony or reports of the examining psychologists or physician are
22 privileged communications, except as to proceedings conducted
23 pursuant to this chapter.

24 3. Except in extraordinary circumstances, as determined by the
25 Board, the failure of a ~~psychologist~~ *person licensed or certified*
26 *pursuant to this chapter* to submit to an examination as provided in
27 this section constitutes grounds for the immediate suspension of the
28 ~~psychologist's~~ *person's* license ~~or~~ *or certificate*.

29 **Sec. 27.** NRS 641.273 is hereby amended to read as follows:

30 641.273 Notwithstanding the provisions of chapter 622A of
31 NRS, if the Board has reason to believe that the conduct of any
32 ~~psychologist~~ *person licensed or certified pursuant to this chapter*
33 has raised a reasonable question as to *the person's* competence to
34 practice psychology *or applied behavior analysis* with reasonable
35 skill and safety to patients, the Board may require the ~~psychologist~~
36 *person* to take a written or oral examination to determine whether
37 the ~~psychologist~~ *person* is competent to practice psychology ~~or~~ *or*
38 *applied behavior analysis*. If an examination is required, the reasons
39 therefor must be documented and made available to the
40 ~~psychologist~~ *person* being examined.

41 **Sec. 28.** NRS 641.274 is hereby amended to read as follows:

42 641.274 Notwithstanding the provisions of chapter 622A of
43 NRS, if the Board, a panel of its members or a hearing officer issues
44 an order suspending ~~the~~ *a person's* license ~~of a psychologist~~ *to*
45 *practice psychology or license or certificate to practice applied*



1 *behavior analysis* pending proceedings for disciplinary action and
2 requires the ~~[psychologist]~~ *person* to submit to a mental or physical
3 examination or an examination of his or her competency to practice
4 psychology ~~[]~~ *or applied behavior analysis*, the examination must
5 be conducted and the results obtained within 60 days after the
6 Board, panel of its members or hearing officer issues the order.

7 **Sec. 29.** NRS 641.285 is hereby amended to read as follows:

8 641.285 Notwithstanding the provisions of chapter 622A of
9 NRS, in any disciplinary proceeding before the Board, a panel of its
10 members or a hearing officer:

11 1. Proof of actual injury need not be established where the
12 complaint charges deceptive or unethical professional conduct or
13 practice of psychology *or applied behavior analysis* harmful to the
14 public.

15 2. A certified copy of the record of a court or a licensing
16 agency showing a conviction or the suspension or revocation of a
17 license to practice psychology *or a license or certificate to practice*
18 *applied behavior analysis* is conclusive evidence of its occurrence.

19 3. The entering of a plea of nolo contendere in a court of
20 competent jurisdiction shall be deemed a conviction of the offense
21 charged.

22 **Sec. 30.** NRS 641.312 is hereby amended to read as follows:

23 641.312 1. Any person who has been placed on probation or
24 whose license *or certificate* has been limited, suspended or revoked
25 is entitled to judicial review of the order.

26 2. Every order which limits ~~[the]~~ *a person's* practice of
27 psychology *or applied behavior analysis* or suspends or revokes a
28 *person's* license *or certificate* is effective from the date the Board
29 certifies the order until the date the order is modified or reversed by
30 a final judgment of the court.

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

34 **Sec. 31.** NRS 641.314 is hereby amended to read as follows:

35 641.314 Notwithstanding the provisions of chapter 622A of
36 NRS:

37 1. Pending disciplinary proceedings before the Board, a panel
38 of its members or a hearing officer, the court may, upon application
39 by the Board or the Attorney General, issue a temporary restraining
40 order or a preliminary injunction to enjoin any unprofessional
41 conduct of a ~~[psychologist]~~ *person licensed or certified pursuant to*
42 *this chapter* which is harmful to the public, to limit the
43 ~~[psychologist's]~~ *person's* practice or to suspend the *person's* license
44 to practice psychology ~~[]~~ *or license or certificate to practice*
45 *applied behavior analysis* without proof of actual damage sustained



1 by any person, this provision being a preventive as well as a
2 punitive measure.

3 2. The disciplinary proceedings before the Board, a panel of its
4 members or a hearing officer must be instituted and determined as
5 promptly as the requirements for investigation of the case
6 reasonably allow.

7 **Sec. 32.** NRS 641.316 is hereby amended to read as follows:

8 641.316 1. The Board through its President or Secretary-
9 Treasurer or the Attorney General may maintain in any court of
10 competent jurisdiction a suit for an injunction against any person
11 practicing psychology *or applied behavior analysis* without a
12 license ~~H~~ *or certificate issued by the Board pursuant to this*
13 *chapter.*

14 2. Such an injunction:

15 (a) May be issued without proof of actual damage sustained by
16 any person, this provision being a preventive as well as a punitive
17 measure.

18 (b) Does not relieve any person from criminal prosecution for
19 practicing without a license ~~H~~ *or certificate.*

20 **Sec. 33.** NRS 641.318 is hereby amended to read as follows:

21 641.318 In addition to any other immunity provided by the
22 provisions of chapter 622A of NRS, the Board, a review panel of a
23 hospital, an association of psychologists, *an association of persons*
24 *who practice applied behavior analysis* or any other person who or
25 organization which initiates a complaint or assists in any lawful
26 investigation or proceeding concerning the licensing of a
27 psychologist, *behavior analyst or assistant behavior analyst or the*
28 *certification of an autism behavior interventionist* or the discipline
29 of ~~la psychologist~~ *such a licensee or certificate holder* for gross
30 malpractice, repeated malpractice, professional incompetence or
31 unprofessional conduct is immune from any civil action for that
32 initiation or assistance or any consequential damages, if the person
33 or organization acted without malicious intent.

34 **Sec. 34.** NRS 641.320 is hereby amended to read as follows:

35 641.320 1. Any person:

36 (a) Whose practice of psychology *or applied behavior analysis*
37 has been limited;

38 (b) Whose license *or certificate* has been revoked; or

39 (c) Who has been placed on probation,

40 ➔ by an order of the Board, a panel of its members or a hearing
41 officer may apply to the Board after 1 year for removal of the
42 limitation or termination of the probation or may apply to the Board
43 pursuant to the provisions of chapter 622A of NRS for reinstatement
44 of the revoked license ~~H~~ *or certificate.*

45 2. In hearing the application, the Board:



(a) May require the person to submit to a mental or physical examination conducted by psychologists or by physicians 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.

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

Sec. 35. NRS 641.350 is hereby amended to read as follows:

641.350 1. The license *or certificate* of any person who fails to pay the biennial fee for the renewal of a license *or certificate* within 60 days after the date when it is due is automatically suspended. The Board may, within 2 years after the date the license *or certificate* is so suspended, reinstate the license *or certificate* upon payment to the Board of the amount of the then current biennial fee for the renewal of a license *or certificate* and the amount of the fee for the restoration of a license *or certificate* so suspended. If the license *or certificate* is not reinstated within 2 years, the Board may reinstate the license *or certificate* only if it also determines that the holder of the license *or certificate* is competent to practice psychology ~~or~~ *or applied behavior analysis*.

2. A notice must be sent to any person who fails to pay the biennial fee, informing the person that the license *or certificate* is suspended.

Sec. 36. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the national examination, in addition to the actual cost to the Board of the examination	\$100
For any other examination required pursuant to the provisions of subsection 1 of NRS 641.180, in addition to the actual costs to the Board of the examination.....	100
For the issuance of an initial license or certificate	25
For the biennial renewal of a license of a psychologist	500
For the biennial renewal of a license of a licensed behavior analyst	400
For the biennial renewal of a license of a licensed <i>an</i> assistant behavior analyst.....	275
For the biennial renewal of a certificate of a-certified <i>an</i> autism behavior interventionist.....	175
For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license	100



For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology \$300
For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the national examination and any other examination required pursuant to the provisions of subsection 1 of NRS 641.180 and who is eligible for a license as a psychologist shall pay the biennial fee for the renewal of a license, which must be prorated for the period from the date the license is issued to the end of the biennium.

3. An applicant who passes the *written examination in Nevada law and ethical practice* and is eligible for a license as a behavior analyst or assistant behavior analyst or a certificate as a autism behavior interventionist shall pay the biennial fee for the renewal of a license or certificate, which must be prorated for the period from the date the license or certificate is issued to the end of the biennium.

4. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 37. NRS 641.440 is hereby amended to read as follows:
641.440 Any person who:

1. Presents as his or her own the diploma, license , *certificate* or credentials of another;

2. Gives either false or forged evidence of any kind to the Board or any member thereof, in connection with an application for a license ~~or~~ *or certificate;*

3. Practices psychology *or applied behavior analysis* under a false or assumed name or falsely personates another psychologist , *behavior analyst, assistant behavior analyst or autism behavior interventionist* of a like or different name;

4. Except as provided in NRS 641.390, 641.410 and 641A.410, represents himself or herself as a psychologist, or uses any title or description which incorporates the word "psychology," "psychological," "psychologist," "psychometry," "psychometrics," "psychometrist" or any other term indicating or implying that he or she is a psychologist, unless he or she has been issued a license; or

5. Practices psychology *or applied behavior analysis* unless he or she has been issued a license ~~or~~ *or certificate,*

➤ is guilty of a gross misdemeanor.



1 **Sec. 38.** NRS 49.207 is hereby amended to read as follows:
2 49.207 As used in NRS 49.207 to 49.213, inclusive, unless the
3 context otherwise requires:

4 1. A communication is “confidential” if it is not intended to be
5 disclosed to third persons other than:

6 (a) Those present to further the interest of the patient in the
7 consultation, examination or interview;

8 (b) Persons reasonably necessary for the transmission of the
9 communication; or

10 (c) Persons who are participating in the diagnosis and treatment
11 under the direction of the psychologist, including members of the
12 patient’s family.

13 2. “Patient” ~~has the meaning ascribed to it in NRS 641.0245.~~
14 *means a person who consults or is examined or interviewed by a*
15 *psychologist for purposes of diagnosis or treatment.*

16 3. “Psychologist” has the meaning ascribed to it in
17 NRS 641.027.

18 **Sec. 39.** NRS 641.232 is hereby repealed.

19 **Sec. 40.** This act becomes effective upon passage and
20 approval.

TEXT OF REPEALED SECTION

641.232 Board to adopt regulations establishing grounds for disciplinary action for licensed behavior analysts, licensed assistant behavior analysts and certified autism behavior interventionists. [Effective January 1, 2011.]

The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

