

Amendment No. 493

Assembly Amendment to Assembly Bill No. 453	(BDR 54-934)
Proposed by: Assembly Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of A.B. 453 (§ 4.5).

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

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ALA/RRY



Date: 4/22/2019

A.B. No. 453—Revises provisions relating to the Board of Psychological
Examiners. (BDR 54-934)



ASSEMBLY BILL NO. 453--COMMITTEE
ON COMMERCE AND LABOR

MARCH 25, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the Board of Psychological Examiners. (BDR 54-934)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for a Term of Imprisonment in County or City Jail or Detention Facility.
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 professions; revising the membership of the Board of Psychological Examiners; providing that certain provisions governing persons licensed as psychologists also apply to persons registered as psychological assistants, psychological interns and psychological trainees; revising the requirements for licensure by endorsement to practice as a psychologist; revising the requirements for an application for the initial registration as a psychological assistant, psychological intern or psychological trainee to be considered complete and received; revising provisions relating to the amount of fees that the Board charges and collects; revising provisions relating to service of process; revising provisions governing investigations of complaints filed with the Board; ~~of Psychological Examiners~~; providing that certain out-of-state orders are conclusive evidence of the occurrence of other disciplinary actions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Board of Psychological Examiners and provides that the Board consists of six members who are appointed by the Governor. (NRS 641.030) Existing law provides the specific qualifications that the members of the Board must satisfy. (NRS 641.040) Section 1 of this bill provides that the Board consists of seven members. Section 1.3 of this bill requires the additional member to be a licensed psychologist who: (1) has at least 5 years of experience; and (2) is a core faculty member at certain doctorate-level programs or internship locations. Section 1.3 further provides that if such a licensed psychologist is not available, then the additional member must be a licensed psychologist with at least 5 years of experience in the practice of psychology.

Existing law requires the Secretary-Treasurer of the Board of Psychological Examiners to make and keep, on behalf of the Board, a register of licenses to practice psychology and a register of all holders of such licenses. (NRS 641.090) Existing law authorizes the Board to

enter into an agreement with the Department of Health and Human Services or a division thereof for certain types of administrative assistance, including assistance in processing applications for the issuance or renewal of licenses to practice psychology. (NRS 641.1105) Existing law requires the Board to submit to the Legislative Committee on Health Care a report which includes the number of applications for the issuance or renewal of a license to practice psychology. (NRS 641.145) ~~Sections 4-3~~ 1.7-3 of this bill provide that these provisions also apply to persons who are registered as psychological assistants, psychological interns or psychological trainees.

Existing law provides the grounds for the Board to commence disciplinary actions against a person who is licensed to practice psychology. Existing law further establishes the procedure used by the Board for pursuing disciplining actions against a person who is licensed to practice psychology. (NRS 641.230-641.320) Existing law sets forth the appeals process that a person may pursue if the person is aggrieved by: (1) the Board's denial of an application of a license to practice psychology; or (2) the issuance of an order by the Board that imposes disciplinary action against the person. (NRS 641.325) Existing law further provides the types of actions that are prohibited. Existing law provides that a person who commits such a prohibited act is guilty of a gross misdemeanor. (NRS 641.440) ~~Sections 5-9 and 11-23~~ of this bill provide that these provisions also apply to persons who are registered as psychological assistants, psychological interns or psychological trainees.

Existing law provides the requirements that a person must satisfy to be issued a license by endorsement to practice as a psychologist by the Board. (NRS 641.195) Section 3.5 of this bill imposes additional requirements that an applicant for a license by endorsement to practice as a psychologist must satisfy.

Existing law provides that the application for initial registration as a psychological assistant, psychological intern or psychological trainee is not considered complete and received until the Board receives a complete set of fingerprints or verification that the fingerprints of the applicant have been forwarded to the Central Repository for Nevada Records of Criminal History. (NRS 641.226) ~~Section 4~~ of this bill provides that the application for initial registration as a psychological assistant, psychological intern or psychological trainee is not considered complete and received until the Board also receives the fee for the initial registration of a psychological assistant, psychological intern or psychological trainee prescribed by the Board.

Existing law requires the Board to charge and collect certain fees for certain examinations, issuances of licenses and other purposes. (NRS 641.228) Section 4.5 of this bill establishes a fee for the issuance of an initial expedited license by endorsement to practice as a psychologist. Section 4.5 further requires the Board to charge and collect the fee for certain licenses by endorsement and to also charge and collect the biennial fee for the renewal of a license, which must be prorated. Section 4.5 additionally increases the fee amounts for the biennial renewal of a license of a psychologist and the fee amounts relating to the restoration of a license.

Existing law sets forth the requirements for service of process pursuant to Chapter 641 of NRS. (NRS 641.243) Section 7 of this bill provides that service of process must be made by: (1) personal delivery of a copy of the process upon the person; or (2) sending a copy of the process by certified mail to the person at his or her last known address. Section 7 additionally provides when service of process is deemed to be complete.

Existing law provides the process through which a person may file a complaint against a person who practices psychology. (NRS 641.250) When a complaint is filed with the Board, existing law requires the Board to review the complaint. If it appears that the complaint is not frivolous, the Board may: (1) retain the Attorney General to investigate the complaint; and (2) if the Board retains the Attorney General, transmit the original complaint and supporting documents to the Attorney General. (NRS 641.270) ~~Section 10~~ of this bill requires, when a complaint is filed with the Board, the Board or an investigator designated by the Board to review the complaint. ~~Section 10~~ also requires the Board, through the President of the Board and the investigator designated by the Board, to investigate the complaint if the Board or the investigator designated by the Board determines that the complaint is not frivolous.

Existing law requires the Board to conduct an investigation of each complaint which sets forth reason to believe that a person represented or practiced as a psychologist without a license. If, after conducting such an investigation, the Board determines that such representation or practice has occurred, the Board shall provide a written summary of the

Board's determination and supporting documents to the Attorney General. (NRS 641.2705) **Section 11** of this bill removes this requirement to provide a written summary to the Attorney General and instead requires the Board to forward to the appropriate law enforcement agency any substantiated information regarding a person who practices or offers to practice as a psychologist or psychological assistant, psychological intern or psychological trainee without a license or registration, unless the Board determines extenuating circumstances exist.

Existing law provides the process through which the Attorney General is to conduct an investigation of a complaint that the Board has transmitted to the Attorney General. (NRS 641.271) **Section 24** of this bill repeals this provision.

Existing law provides that, in a disciplinary proceeding before the Board, a panel of its members or a hearing officer, a certified copy of the record of a licensing agency showing a conviction or the suspension or revocation of a license to practice psychology is conclusive evidence of its occurrence. (NRS 641.285) In addition to such certified copies of the record, **section 15** of this bill provides that, in such a disciplinary proceeding, an order containing any other disciplinary action entered by a court in the District of Columbia or any state or territory of the United States is also conclusive evidence of its occurrence.

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

Section 1. NRS 641.030 is hereby amended to read as follows:

641.030 The Board of Psychological Examiners, consisting of ~~five~~ seven members appointed by the Governor, is hereby created.

Sec. 1.3. NRS 641.040 is hereby amended to read as follows:

641.040 1. The Governor shall appoint to the Board:

(a) Four members who are licensed psychologists in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed.

(b) One member who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

(c) One member who is a licensed psychologist in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed and who is a core faculty member at a doctorate-level program or internship location that is accredited by the American Psychological Association for at least 3 years before the time of appointment. If such a licensed psychologist is not available to serve, the Governor shall appoint one member who meets the requirements set forth in paragraph (a).

(d) One member who is a representative of the general public.

2. A person is not eligible for appointment unless he or she is:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada.

3. The member who is a representative of the general public must not be a psychologist, an applicant or a former applicant for licensure as a psychologist, a member of a health profession, the spouse or the parent or child, by blood, marriage or adoption, of a psychologist, or a member of a household that includes a psychologist.

4. Board members must not have any conflicts of interest or the appearance of such conflicts in the performance of their duties as members of the Board.

~~[Section 1.7]~~ **Sec. 1.7. 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 ~~§~~ and registrations.

(e) A register of all holders of licenses ~~§~~ and registrations.

(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 this section, are subject to public inspection during normal working hours upon reasonable notice.

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

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

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

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

Sec. 2. NRS 641.1105 is hereby amended to read as follows:

641.1105 The Board may enter into an agreement with the Department of Health and Human Services or a division thereof to provide services to carry out or improve any function of the Board. Such services may include, without limitation:

1. Assistance in processing applications for the issuance or renewal of licenses ~~§~~ and registrations;

2. Technical assistance;

3. Facilitating cooperation with other boards and licensing entities in this State or any other jurisdiction;

4. Recommendations to improve and standardize procedures used by the Board; and

5. Assistance in identifying resources for improving the operations of the Board.

Sec. 3. NRS 641.145 is hereby amended to read as follows:

641.145 On or before February 1 of each year, the Board shall submit to the Legislative Committee on Health Care a report which must include:

1. The number of complaints received, investigations completed, cases dismissed, cases settled and cases for which hearings were held within the immediately preceding calendar year; and

2. The number of applications for the issuance or renewal of a license ~~or~~ **registration** received by the Board during the immediately preceding calendar year and the number of those applications for which the Board conducted additional review beyond the standard review regularly conducted by the Board.

Sec. 3.5. **NRS 641.195 is hereby amended to read as follows:**

641.195 1. The Board may issue a license by endorsement as a psychologist to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant ~~holds~~ **:**

1 (a) Holds a corresponding valid , active and unrestricted license as a
2 psychologist in the District of Columbia or any state or territory of the United
3 States ~~;~~;

4 (b) Possesses qualifications that are substantially similar to the qualifications
5 required for issuance of a license to practice psychology pursuant to this chapter,
6 as determined by the Board pursuant to subsection 2; and

7 (c) Satisfies the requirements of this section and this chapter.

8 2. The Board shall adopt regulations providing a list of any state or territory
9 of the United States and the District of Columbia, if applicable, whose
10 qualifications are substantially similar to the qualifications required for issuance
11 of a license to practice psychology pursuant to this chapter. If the Board
12 determines that the qualifications of any state or territory of the United States
13 and the District of Columbia, if applicable, are not substantially similar, the
14 Board shall:

15 (a) Provide its reasoning as to why the jurisdiction is not substantially
16 similar; and

17 (b) Publish its reasoning on the Internet website maintained by the Board.

18 3. An applicant for a license by endorsement pursuant to this section must
19 submit to the Board with his or her application:

20 (a) Proof satisfactory to the Board that the applicant:

21 (1) Satisfies the requirements of subsection 1;

22 (2) Is a citizen of the United States or otherwise has the legal right to work
23 in the United States;

24 (3) Has not been disciplined or investigated by the corresponding
25 regulatory authority of the District of Columbia or any state or territory in which
26 the applicant currently holds or has held a license as a psychologist; ~~and;~~

27 (4) Has not been held civilly or criminally liable for malpractice in the
28 District of Columbia or any state or territory of the United States;

29 (5) Has not had a license to engage in the practice of psychology
30 suspended or revoked in the District of Columbia or any state or territory of the
31 United States;

32 (6) Has not been refused a license to engage in the practice of
33 psychology in the District of Columbia or any state or territory of the United
34 States for any reason; and

35 (7) Does not have pending any disciplinary action concerning his or her
36 license to engage in the practice of psychology in the District of Columbia or any
37 state or territory of the United States;

38 (b) A complete set of fingerprints and written permission authorizing the Board
39 to forward the fingerprints in the manner provided in NRS 641.160; and

40 ~~(c) [An affidavit stating that the information contained in the application and~~
41 ~~any accompanying material is true and correct;~~

42 ~~(d)]~~ The fee prescribed by the Board pursuant to NRS 641.228 for the issuance
43 of an initial license. ~~;~~ and;

44 4. The Board may require an applicant for a license by endorsement
45 pursuant to this section to submit to the Board with his or her application:

46 (a) Proof satisfactory to the Board that the applicant:

47 (1) Has achieved a passing score on a nationally recognized, nationally
48 accredited or nationally certified examination approved by the Board;

49 (2) Has satisfied the requirements of paragraph (d) of subsection 1 of
50 NRS 641.170;

51 (3) Has engaged in the practice of psychology pursuant to the applicant's
52 existing licensure for at least 3 years; and

(4) Possesses a sufficient degree of competency in the practice of psychology, as demonstrated by his or her completion of an examination administered by the Board;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and complete; and

~~[(c)]~~ (c) Any other information required by the Board.

~~[(2)]~~ 5. Not later than 15 business days after receiving an application for a license by endorsement as a psychologist pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement as a psychologist to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,
➤ whichever occurs later.

~~[(4)]~~ 6. A license by endorsement as a psychologist may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

7. The Board may deny an application for licensure by endorsement if:

(a) An applicant willfully fails to comply with the provisions of paragraph (b) of subsection 3; or

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the applicant as a licensee and the Board has not previously taken disciplinary action against the licensee based on that conviction.

Sec. 4. NRS 641.226 is hereby amended to read as follows:

641.226 1. A person who wishes to obtain any postdoctoral supervised experience that is required for licensure as a psychologist pursuant to paragraph (e) of subsection 1 of NRS 641.170 must register with the Board as a psychological assistant.

2. A person who:

(a) Is in a doctoral training program in psychology at an accredited educational institution approved by the Board or in doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training; and

(b) Wishes to engage in a predoctoral internship pursuant to the requirements of the training program,

➤ may register with the Board as a psychological intern.

3. A person who:

(a) Is in a doctoral training program in psychology at an accredited educational institution approved by the Board or in doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training; and

(b) Wishes to perform professional activities or services under the supervision of a psychologist,

➤ may register with the Board as a psychological trainee.

4. A person desiring to register as a psychological assistant, psychological intern or psychological trainee must:

(a) Make application to the Board on 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, a fee for the processing of fingerprints established by the Board 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.

5. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 4, 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.

6. An application for initial registration as a psychological assistant, psychological intern or psychological trainee is not considered complete and received until the Board receives ~~it~~:

(a) 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 ~~it~~; and

(b) The fee for the initial registration of a psychological assistant, psychological intern or psychological trainee that is prescribed by the Board pursuant to NRS 641.228.

7. A registration as a:

(a) Psychological assistant expires 1 year after the date of registration unless the registration is renewed pursuant to subsection 8. A registration as a psychological assistant may not be renewed if the renewal would cause the psychological assistant to be registered as a psychological assistant for more than 3 years unless otherwise approved by the Board.

(b) Psychological intern expires 2 years after the date of registration and may not be renewed unless otherwise approved by the Board.

(c) Psychological trainee expires 2 years after the date of registration unless the registration is renewed pursuant to subsection 8. A registration as a psychological trainee may not be renewed if the renewal would cause the psychological trainee to be registered as a psychological trainee for more than 5 years unless otherwise approved by the Board.

8. To renew a registration as a psychological assistant, psychological intern or psychological trainee, the registrant must, on or before the expiration of the registration:

(a) Apply to the Board for renewal;

(b) Pay the fee prescribed by the Board pursuant to NRS 641.228 for the renewal of a registration as a psychological assistant, psychological intern or psychological trainee; and

(c) Submit all information required to complete the renewal.

9. Any activity or service performed by a psychological assistant, psychological intern or psychological trainee must be performed under the supervision of a psychologist in accordance with regulations adopted by the Board.

Sec. 4.5. NRS 641.228 is hereby amended to read as follows:

641.228 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 [including a license by endorsement]	25
<u>For the issuance of an initial license by endorsement</u>	<u>125</u>
For the biennial renewal of a license of a psychologist.....	[500] <u>850</u>
For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license.....	[100] <u>200</u>
<u>For the restoration of a license suspended for the nonsubmission of evidence to the Board of completion of the requirements for continuing education as required for the renewal of the license.....</u>	<u>200</u>
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
For the initial registration of a psychological assistant, psychological intern or psychological trainee.....	250
For the renewal of a registration of a psychological assistant, psychological intern or psychological trainee	150

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. Except as otherwise provided in subsections 4 and 5 and NRS 641.195, 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.

4. If an applicant submits an application for a license by endorsement pursuant to NRS 641.195, the Board shall charge and collect ~~[not]~~ :

(a) Not more than the fee specified in subsection 1 for the issuance of an initial license ~~[by endorsement]; and~~

(b) 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.

5. If an applicant submits an application for a license by endorsement pursuant to NRS 641.196, the Board shall collect not more than one-half of the fee set forth in subsection 1 for the initial issuance of the license. ~~It~~ *by endorsement.*

6. If an applicant submits an application for initial registration as a psychological assistant, psychological intern or psychological trainee pursuant to NRS 641.226 and the applicant has previously been registered as a psychological assistant, psychological intern or psychological trainee, the Board must waive the fee set forth in subsection 1 for the initial registration.

Sec. 5. NRS 641.230 is hereby amended to read as follows:

641.230 1. The Board may suspend or revoke a person's license as a psychologist ~~or registration as a psychological assistant, psychological assistant or psychological trainee,~~ place the person on probation, require remediation for the person or take any other action specified by regulation if the Board finds by a preponderance of the evidence that the person has:

(a) Been convicted of a felony relating to the practice of psychology ~~or to practicing as a psychological assistant, psychological intern or psychological trainee;~~

(b) Been convicted of any crime or offense that reflects the inability of the person to practice psychology *or to practice as a psychological assistant, psychological intern or psychological trainee* with due regard for the health and safety of others.

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

(d) Engaged in gross malpractice or repeated malpractice or gross negligence in the practice of psychology ~~or the practice as a psychological assistant, psychological intern or psychological trainee;~~

(e) Aided or abetted the practice of psychology *or the practice as a psychological assistant, psychological intern or psychological trainee* by a person not licensed *or registered* by the Board.

(f) Made any fraudulent or untrue statement to the Board.

(g) Violated a regulation adopted by the Board.

(h) Had a license to practice psychology *or registration to practice as a psychological assistant, psychological intern or psychological trainee* suspended or revoked or has had any other disciplinary action taken against the 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.

(i) 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 registration to practice as a psychological assistant, psychological intern or psychological trainee* issued to the person by another state or territory of the United States, the District of Columbia or a foreign country.

(j) 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.

(k) Performed or attempted to perform any professional service while impaired by alcohol, drugs or by a mental or physical illness, disorder or disease.

(l) Engaged in sexual activity with a patient or client.

(m) Been convicted of abuse or fraud in connection with any state or federal program which provides medical assistance.

(n) Been convicted of submitting a false claim for payment to the insurer of a patient or client.

(o) Operated a medical facility, as defined in NRS 449.0151, at any time during which:

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

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

➤ This paragraph applies to an owner or other principal responsible for the operation of the facility.

2. As used in this section, “preponderance of the evidence” has the meaning ascribed to it in NRS 233B.0375.

Sec. 6. 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:

(a) Administer a public reprimand.

(b) Limit the person’s practice.

(c) Suspend the person’s license *or registration* for a period of not more than 1 year.

(d) Revoke the person’s license ~~or~~ *or registration*.

(e) Impose a fine of not more than \$5,000.

(f) Revoke or suspend the person’s license *or registration* and impose a monetary penalty.

(g) Suspend the enforcement of any penalty by placing the person 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. 7. NRS 641.243 is hereby amended to read as follows:

641.243 Except as otherwise provided in chapter 622A of NRS:

1. Service of process made under this chapter must be ~~either~~ *made by:*

(a) Personal delivery of a copy of the process upon the person ~~;~~ or ~~by registered or~~

(b) Sending a copy of the process by certified mail ~~[with return receipt requested, addressed to the psychologist, psychological assistant, psychological intern or psychological trainee] to the person~~ at his or her 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, psychological assistant’s, psychological intern’s or psychological trainee’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]~~ *Service* of process ~~[or publication of notice]~~ made under this chapter ~~[must]~~ *shall* be ~~[filed with the Board and must be recorded in the minutes of the Board.]~~ *deemed to be complete:*

(a) If a copy of the process is personally delivered pursuant to paragraph (a) of subsection 1, on the date on which the copy of the process is personally delivered; or

(b) If a copy of the process is mailed pursuant to paragraph (b) of subsection 1, on the date on which the copy of the process is mailed.

Sec. 8. NRS 641.245 is hereby amended to read as follows:

641.245 1. The Board, any member thereof, a panel of its members or a hearing officer may issue subpoenas to compel the attendance of witnesses and the production of books, papers, documents, the records of patients, and any other article related to the practice of psychology ~~or to the practice as a psychological assistant, psychological intern or psychological trainee.~~

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

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

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

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

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

3. Upon such a petition, the court shall enter an order directing the witness 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 then and there show cause why the witness has not attended or testified or produced the articles. A certified copy of the order must be served upon the witness.

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

Sec. 9. NRS 641.250 is hereby amended to read as follows:

641.250 1. 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 *or practicing as a psychological assistant, psychological intern or psychological trainee* in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board.

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

Sec. 10. NRS 641.270 is hereby amended to read as follows:

641.270 When a complaint is filed with the Board, ~~the Board or an investigator designated by the Board~~ shall review the complaint. If, ~~from the complaint or from other official records, it appears~~ *upon completing the review of the complaint, the Board or the investigator designated by the Board determines* that the complaint is not frivolous, the Board ~~may:~~

~~1. Retain the Attorney General to investigate the complaint; and~~
~~2. If the Board retains the Attorney General, transmit the original complaint, along with further facts or information derived from the review, to the Attorney General, through the President of the Board and the investigator designated by the Board, shall investigate the complaint.~~

Sec. 11. NRS 641.2705 is hereby amended to read as follows:

641.2705 1. The Board, *through the President of the Board and the investigator designated by the Board,* shall conduct an investigation of each

1 complaint filed pursuant to NRS 641.250 which sets forth reason to believe that a
2 person has violated NRS 641.390.

3 2. If, after an investigation, the Board determines that a person has violated
4 NRS 641.390, the Board:

5 (a) May issue and serve on the person an order to cease and desist from
6 engaging in any activity prohibited by NRS 641.390 until the person obtains the
7 proper license *or registration* from the Board;

8 (b) May issue a citation to the person; and

9 (c) ~~{Shall provide a written summary of the Board's determination and any~~
10 ~~information relating to the violation to the Attorney General.}~~ *Unless the Board*
11 *determines that extenuating circumstances exist, shall forward to the appropriate*
12 *law enforcement agency any substantiated information that has been submitted to*
13 *the Board regarding a person who practices or offers to practice:*

14 *(1) Psychology in this State without the proper license issued by the*
15 *Board pursuant to this chapter; or*

16 *(2) As a psychological assistant, psychological intern or psychological*
17 *trainee in this State without the proper registration issued by the Board pursuant*
18 *to this chapter.*

19 3. A citation issued pursuant to subsection 2 must be in writing and describe
20 with particularity the nature of the violation. The citation also must inform the
21 person of the provisions of subsection 5. Each violation of NRS 641.390 constitutes
22 a separate offense for which a separate citation may be issued.

23 4. For any person who violates the provisions of NRS 641.390, the Board
24 shall assess an administrative fine of:

25 (a) For a first violation, \$500.

26 (b) For a second violation, \$1,000.

27 (c) For a third or subsequent violation, \$1,500.

28 5. To appeal a citation issued pursuant to subsection 2, a person must submit a
29 written request for a hearing to the Board within 30 days after the date of issuance
30 of the citation.

31 **Sec. 12.** NRS 641.272 is hereby amended to read as follows:

32 641.272 1. Notwithstanding the provisions of chapter 622A of NRS, the
33 Board may require the person named in a complaint to submit to a mental
34 examination conducted by a panel of three psychologists designated by the Board
35 or a physical examination conducted by a physician designated by the Board.

36 2. Every psychologist licensed under this chapter *and every psychological*
37 *assistant, psychological intern or psychological trainee registered under this*
38 *chapter* who accepts the privilege of practicing psychology *or practicing as a*
39 *psychological assistant, psychological intern or psychological trainee* in this State
40 shall be deemed to have given consent to submit to a mental or physical
41 examination when directed to do so in writing by the Board. The testimony or
42 reports of the examining psychologists or physician are privileged communications,
43 except as to proceedings conducted pursuant to this chapter.

44 3. Except in extraordinary circumstances, as determined by the Board, the
45 failure of a psychologist , *psychological assistant, psychological intern or*
46 *psychological trainee* to submit to an examination as provided in this section
47 constitutes grounds for the immediate suspension of the psychologist's license ~~{~~ *or*
48 *the psychological assistant's, psychological intern's or psychological trainee's*
49 *registration.*

50 **Sec. 13.** NRS 641.273 is hereby amended to read as follows:

51 641.273 Notwithstanding the provisions of chapter 622A of NRS, if the
52 Board has reason to believe that the conduct of any psychologist , *psychological*
53 *assistant, psychological intern or psychological trainee* has raised a reasonable

question as to competence to practice psychology *or to practice as a psychological assistant, psychological intern or psychological trainee* with reasonable skill and safety to patients, the Board may require the psychologist, *psychological assistant, psychological intern or psychological trainee* to take a written or oral examination to determine whether the psychologist, *psychological assistant, psychological intern or psychological trainee* is competent to practice psychology ~~or~~ *or to practice as a psychological assistant, psychological intern or psychological trainee*. If an examination is required, the reasons therefor must be documented and made available to the psychologist, *psychological assistant, psychological intern or psychological trainee* being examined.

Sec. 14. NRS 641.274 is hereby amended to read as follows:

641.274 Notwithstanding the provisions of chapter 622A of NRS, if the Board, a panel of its members or a hearing officer issues an order suspending the license of a psychologist *or the registration of a psychological assistant, psychological intern or psychological trainee* pending proceedings for disciplinary action and requires the psychologist, *psychological assistant, psychological intern or psychological trainee* to submit to a mental or physical examination or an examination of his or her competency to practice psychology ~~or~~ *or to practice as a psychological assistant, psychological intern or psychological trainee*, 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. 15. NRS 641.285 is hereby amended to read as follows:

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

1. Proof of actual injury need not be established where the complaint charges deceptive or unethical professional conduct, ~~for~~ practice of psychology, *or practice as a psychological assistant, psychological intern or psychological trainee* harmful to the public.

2. A certified copy of the record of a court or a licensing agency showing a conviction or the suspension or revocation of a license to practice psychology *or registration to practice as a psychological assistant, psychological intern or psychological trainee or an order containing any other disciplinary action entered by a court in the District of Columbia or any state or territory of the United States* is conclusive evidence of its occurrence.

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

Sec. 16. NRS 641.312 is hereby amended to read as follows:

641.312 1. Any person who has been placed on probation or whose license *or registration* has been limited, suspended or revoked, and whose appeal pursuant to NRS 641.325 has been denied, is entitled to judicial review of the order.

2. Every order which limits the practice of psychology *or the practice as a psychological assistant, psychological intern or psychological trainee* or suspends or revokes a license *or registration* is effective from the date the Board certifies the order until the date the order is modified or reversed by an order of the Commission on Behavioral Health pursuant to NRS 641.325 or a final judgment of the court.

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

Sec. 17. NRS 641.314 is hereby amended to read as follows:

641.314 Notwithstanding the provisions of chapter 622A of NRS:

1. Pending disciplinary proceedings before the Board, a panel of its members or a hearing officer, the court may, upon application by the Board or the Attorney General, issue a temporary restraining order or a preliminary injunction to enjoin

1 any unprofessional conduct of a psychologist , *psychological assistant,*
2 *psychological intern or psychological trainee* which is harmful to the public, to
3 limit the psychologist's , *psychological assistant's, psychological intern's or*
4 *psychological trainee's* practice or to suspend the license to practice psychology ~~or~~
5 *or registration to practice as a psychological assistant, psychological intern or*
6 *psychological trainee*, without proof of actual damage sustained by any person, this
7 provision being a preventive as well as a punitive measure.

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

11 **Sec. 18.** NRS 641.316 is hereby amended to read as follows:

12 641.316 1. The Board through its President or Secretary-Treasurer or the
13 Attorney General may maintain in any court of competent jurisdiction a suit for an
14 injunction against any person practicing ~~psychology~~ :

15 (a) *Psychology* without a license or authorization to practice psychology in this
16 State pursuant to the Psychology Interjurisdictional Compact enacted in NRS
17 641.227 ~~or~~ ; or

18 (b) *As a psychological assistant, psychological intern or psychological*
19 *trainee without a registration.*

20 2. Such an injunction:

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

23 (b) Does not relieve any person from criminal prosecution for practicing
24 without a license ~~or~~ *or registration.*

25 **Sec. 19.** NRS 641.318 is hereby amended to read as follows:

26 641.318 In addition to any other immunity provided by the provisions of
27 chapter 622A of NRS, the Board, a review panel of a hospital, an association of
28 psychologists or any other person who or organization which initiates a complaint
29 or assists in any lawful investigation or proceeding concerning the licensing of a
30 psychologist *or the registering of a psychological assistant, psychological intern*
31 *or psychological trainee* or the discipline of a psychologist , *psychological*
32 *assistant, psychological intern or psychological trainee* for gross malpractice,
33 repeated malpractice, professional incompetence or unprofessional conduct is
34 immune from any civil action for that initiation or assistance or any consequential
35 damages, if the person or organization acted without malicious intent.

36 **Sec. 20.** NRS 641.320 is hereby amended to read as follows:

37 641.320 1. Any person:

38 (a) Whose practice of psychology *or practice as a psychological assistant,*
39 *psychological intern or psychological trainee* has been limited;

40 (b) Whose license *or registration* has been revoked; or

41 (c) Who has been placed on probation,

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

46 2. In hearing the application, the Board:

47 (a) May require the person to submit to a mental or physical examination
48 conducted by psychologists or by physicians whom it designates and submit such
49 other evidence of changed conditions and of fitness as it considers proper.

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

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

Sec. 21. NRS 641.325 is hereby amended to read as follows:

641.325 1. Not later than 30 days after the Board denies an application for the issuance or renewal of a license *or registration* or issues an order imposing disciplinary action against a licensee ~~or~~ *or registrant*, the applicant, ~~the~~ licensee *or registrant* aggrieved by the order may submit an appeal to the Commission on Behavioral Health. The Commission shall notify the Board not later than 10 days after receiving such an appeal.

2. The Commission shall, upon an appeal submitted pursuant to subsection 1, investigate the refusal of the Board to issue or renew a license *or registration* or any disciplinary action imposed by the Board. The action of the Board remains in effect until the Commission renders a decision pursuant to subsection 3.

3. After conducting an investigation pursuant to subsection 2, the Commission shall render a decision on the appeal. In rendering a decision, the Commission shall presume that the action of the Board was proper and shall not substitute its judgment for that of the Board concerning the weight of evidence on a question of fact. The Commission may order the Board to issue or renew the license *or registration* or modify or set aside the disciplinary action, as applicable, only if the Commission finds that the action of the Board:

- (a) Violates constitutional or statutory provisions;
- (b) Exceeds the statutory authority of the agency;
- (c) Was made upon unlawful procedure;
- (d) Is affected by other error of law;
- (e) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Is arbitrary or capricious or characterized by abuse of discretion.

4. An investigation conducted by the Commission pursuant to the provisions of this section is limited to the application for the issuance or renewal of a license *or registration* and any information submitted in conjunction with the application or the record of the disciplinary proceeding created by the Board, as applicable. The Board shall provide those records to the Commission upon request. Unless the information is deemed a public record under the provisions of NRS 641.090 or 641.240 or other applicable law, the Commission shall keep the information confidential.

Sec. 22. NRS 641.390 is hereby amended to read as follows:

641.390 1. Except as authorized by the Psychology Interjurisdictional Compact enacted in NRS 641.227, a person shall not represent himself or herself as a psychologist within the meaning of this chapter or engage in the practice of psychology unless he or she is licensed under the provisions of this chapter, except that any psychological scientist employed by an accredited educational institution or public agency which has set explicit standards may represent himself or herself by the title conferred upon him or her by such institution or agency.

2. This section does not grant approval for any person to offer services as a psychologist to any other person as a consultant, and to accept remuneration for such psychological services, other than that of an institutional salary, unless the psychologist has been licensed under the provisions of this chapter.

3. This chapter does not prevent the teaching of psychology or psychological research, unless the teaching or research involves the delivery or supervision of direct psychological services to a person. Persons who have earned a doctoral degree in psychology from an accredited educational institution may use the title "psychologist" in conjunction with the activities permitted by this subsection.

4. A graduate student in psychology whose activities are part of the course of study for a graduate degree in psychology at an accredited educational institution or a person pursuing postdoctoral training or experience in psychology to fulfill the

requirements for licensure under the provisions of this chapter may use the terms “psychological trainee,” “psychological intern ” ~~“psychological resident”~~ or “psychological assistant” if the activities are performed under the supervision of a licensed psychologist in accordance with the regulations adopted by the Board.

5. A person who is certified as a school psychologist by the State Board of Education may use the title “school psychologist” or “certified school psychologist” in connection with activities relating to school psychologists.

Sec. 23. 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, *registration* 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 registration”~~;

3. Practices psychology *or practices as a psychological assistant, psychological intern or psychological trainee* under a false or assumed name or falsely personates another psychologist, *psychological assistant, psychological intern or psychological trainee* 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. *Except as otherwise provided in NRS 641.390, represents himself or herself as a psychological assistant, psychological intern or psychological trainee, or uses any title or description which incorporates the words “psychological assistant,” “psychological intern” or “psychological trainee” or any other term indicating or implying that he or she is a psychological assistant, psychological intern or psychological trainee, unless he or she has been issued a registration;*

6. Practices psychology unless he or she has been issued a license ~~“or”~~;

7. *Practices as a psychological assistant, psychological intern or psychological trainee unless he or she has been issued a registration,*

is guilty of a gross misdemeanor.

Sec. 24. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 25. NRS 641.271 is hereby repealed.

Sec. 26. This act becomes effective on July 1, 2019.

TEXT OF REPEALED SECTION

641.271 Investigation of complaint by Attorney General upon retention by Board; recommendation to Board; action by Board; authority of Attorney General to charge Board for services.

1. If the Board retains the Attorney General pursuant to NRS 641.270, the Attorney General shall conduct an investigation of a complaint transmitted to the Attorney General to determine whether it warrants proceedings for the modification, suspension or revocation of the license. If the Attorney General determines that further proceedings are warranted, he or she shall report the results of the investigation together with a recommendation to the Board in a manner

which does not violate the right of the person charged in the complaint to due process in any later hearing on the complaint.

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

(a) Dismiss the complaint; or

(b) Proceed with appropriate disciplinary action.

3. If the Board retains the Attorney General pursuant to NRS 641.270, the Attorney General may, in accordance with the provisions of NRS 228.113, charge the Board for all services relating to the investigation of a complaint pursuant to subsection 1.