



## Notice of Workshop to Solicit Comments on Proposed Regulation

The State of Nevada Board of Applied Behavior Analysis is proposing regulations as required by Nevada Revised Statute, Chapter 641D.

**Tuesday – February 20, 2024 at 10:00 a.m.**

Board Administrative Office  
6170 Mae Anne Avenue, Suite 1  
Reno, Nevada 89523

### **Zoom Remote Access**

<https://zoom.us/j/97857306294?pwd=b2sxNHFF0ejA4NzQyMHlaTFFOdmZRZz09>

Meeting ID: **978 5730 6294** Passcode: **171188**

**Audio Access Only:**  
1-253-205-0468

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The purpose of the workshop is to solicit comments from interested persons on the proposed regulations which establishes a new section of the Nevada Administrative Code pertaining to the regulation and licensure of Applied Behavior Analysts, Assistant Behavior Analysts and registration of Behavior Technicians.

A copy of the proposed regulations are attached and may be obtained at the workshop or by contacting the Board of Applied Behavior Analysts, 6170 Mae Anne Avenue, Suite 1, Reno, Nevada 89523. Copies of the proposed regulations are available for viewing or printing on the Board's website [www.nvababoard.org](http://www.nvababoard.org). Written comments will be accepted in hard copy or by email addressed to [executivedirector@nvababoard.org](mailto:executivedirector@nvababoard.org).

All interested parties are encouraged to participate in the regulatory review process.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements are necessary, please notify Wendy Knorr Executive Director at (775) 746-9429 within 72 hours of the meeting date and time.

This **Notice of Workshop to Solicit Comments on Proposed Regulations** has been sent to all licensed applied behavior analysts, assistant behavior analysts and registered behavior technicians as well as persons on the agency's mailing list for Board notices.

This Notice has been posted at 6170 Mae Anne Ave, Suite, 1, Reno, NV 89523 and on the following websites:

Board of Behavior Analysts: [www.nvababoard.org](http://www.nvababoard.org);  
State of Nevada Public Notices: <https://notice.nv.gov/>  
Legislative website: [www.leg.state.nv.us](http://www.leg.state.nv.us)

Dated: January 29, 2024

## NEW

### CHAPTER 641D – APPLIED BEHAVIOR ANALYSIS

#### GENERAL PROVISIONS

**Definitions.** ([NRS 641D.010](#)) As used in this chapter, unless the context otherwise requires, the words and terms defined in [NAC 641D.xxx](#) to [641D.xxx](#), inclusive, have the meanings ascribed to them in those sections.

**“Applied behavior analysis” defined.** ([NRS 641D.010](#)) “Applied behavior analysis” has the meaning ascribed to it in [NRS 641D.080](#).

**“Board” defined.** ([NRS 641D.010](#)) “Board” means the Board of Applied Behavior Analysis.

**“Licensed assistant behavior analyst” defined.** ([NRS 641D.010](#)) “Licensed assistant behavior analyst” has the meaning ascribed to it in [NRS 641D.020](#).

**“Licensed behavior analyst” defined.** ([NRS 641D.010](#)) “Licensed behavior analyst” has the meaning ascribed to it in NRS 641D.030.

**“Licensee” defined.** ([NRS 641D.010](#)) **“Licensee” means a licensed behavior analyst or licensed assistant behavior analyst.**

**“Registered behavior technician” defined.** ([NRS 641D.010](#)) “Registered behavior technician has the meaning ascribed to it in NRS 641D.100.

**“Registrant” defined.** ([NRS 641D.010](#)) “Registrant” means a Registered Behavior Technician.

**“Supervision” defined.** ([NRS 640D.010](#)) "Supervision" means a collaborative process for the responsible, periodic review and inspection of all aspects of any applied behavior analysis services provided.

**“Supervisor” defined.** ([NRS 641D.100](#)) As used in [NAC 641D.xxx](#) to NAC [641D.xxx](#), inclusive, “supervisor” means a person authorized by the Behavior Analyst Certification Board, Inc., to supervise a licensed assistant behavior analyst or registered behavior technician pursuant to this chapter.

**“Hour of continuing education” defined.** ([NRS 640d.010](#)) "Hour of continuing education" means 50 minutes of continuing education, not including time for meals or breaks.

**"Inactive status" defined.** (NRS 640d. 010) "Inactive status" means a license held by a licensee who is not practicing in the State of Nevada.

## LICENSING

**Applicants: Requests by Board for additional information or oral interview.** (NRS 640D.010) For any application submitted to the Board, the Board may request additional information or an oral interview, or both, as the Board designates.

### **Eligibility to obtain license as a behavior analyst, assistant behavior analyst; or behavior technician; denial or withdrawal of application.**

1. To be eligible to obtain a license or registration, a person must:
  - (a) Complete and submit an application for licensure or registration;
  - (b) Pay the fees, as applicable, as set forth in [NAC 641D.XXX](#);
  - (c) Hold current certification as a behavior analyst, assistant behavior analyst or behavior technician by the Behavior Analyst Certification Board, Inc., or its successor organization;
  - (d) Comply with [NRS 641D.300](#) by submitting:
    - (1) A complete set of the applicant's fingerprints to the Board with 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; or
    - (2) Verification to the Board that the applicant's fingerprints were forwarded to the Central Repository by the law enforcement agency or other authorized entity taking the fingerprints; and
  - (e) Must not have been convicted of a crime listed in [NAC 641D.XXX](#);
2. In addition to the requirements of paragraph 1 of this section, the Board will require an applicant for a license as a behavior analyst or assistant behavior analyst to provide proof the applicant:
  - (a) Has not been subject to disciplinary action by and does not have any outstanding complaints or charges pending against him or her before:
    - (1) A licensing, or certifying authority of another jurisdiction; or
    - (2) the Behavior Analyst Certification Board, Inc., or successor organization,

and

(b) Has passed the state examination administered by the Board pursuant to [NAC 641D.XXX](#).

3. In addition to the requirements of paragraph 1 and 2 of this section, as applicable, the Board will require an applicant for a license as an assistant behavior analyst or registration as a registered behavior technician to provide notice of employment and supervision pursuant to the requirements prescribed by the Behavior Analyst Certification Board, Inc., or successor organization, adopted by reference in [NAC 641D.XXX](#).

4. The Board must receive the report on the criminal history investigation required by paragraph 1 of this section prior to the approval and issuance of the license or registration.

#### **Application status, denial or withdrawal of application, fees**

1. An application will be deemed complete upon receipt of all information required pursuant to [NAC 641D.XXX](#) and [NAC 641D.XXX](#), report on criminal history required by [NAC 641D.XXX](#) and payment of the fees prescribed in [NAC 641D.XXX](#).

2. An incomplete application will be deemed expired after 180 days, unless a request for extension is received and approved by the Board.

3. Within 60 days of the date of submittal, an applicant may submit a written request to withdraw their application.

4. Fees submitted with an incomplete application that has expired are not refundable. Fees submitted with an application that is withdrawn will be refunded less \$50 for record processing.

#### **Expiration and renewal of license or registration. (NRS 640D.010)**

1. A license or registration issued by the Board, including, without limitation, a license that has been placed on inactive status, expires at midnight on December 31 of even number years.

2. To renew a license or registration, a person must provide to the Board the materials required by [NAC 641D.XXX](#) and [NAC 641D.XXX](#), as applicable.

**Renewal of license as licensed behavior analyst, assistant behavior analyst. ([NRS 641D.010](#))**

1. To renew his or her license, a licensed behavior analyst or a licensed assistant behavior analyst must submit:

- (a) An application for renewal;
- (b) Documentation of current certification by the Behavior Analyst Certification Board, Inc., or its successor organization;
- (c) Documentation of completion of continuing education required by [NAC 641D.XXX](#), paragraph 2; and
- (d) Payment of the fee(s) as set forth in [NAC 641D.XXX](#).

2. Each applicant for renewal must certify that:

- (a) He or she has completed the continuing education required by [NAC 641D.XXX](#) and
- (b) The evidence of completion of continuing education required pursuant to subsection 1 is true and accurate.

3. The licensee shall retain evidence of the completion of the continuing education required by [NAC 641D.XXX](#) for at least 7 years after the completion of that continuing education. Evidence of completion of the continuing education set for in paragraph 1 of [NAC 641D.XXX](#) includes, without limitation, documentation of completion from the Behavior Analyst Certification Board, Inc. Evidence of completion of the continuing education set for in paragraph 2 of [NAC 641D.XXX](#) includes, without limitation, a certificate of completion or similar document attesting to the completion of the continuing education which contains the licensee's name, date of course, and number of continuing education hours completed.

4. Upon the request of the Board, the licensee must provide evidence of completion of continuing education.

**Renewal of registration as registered behavior technician**

1. To renew his or her registration, a registered behavior technician must submit:

- (a) An application for renewal;
- (b) Documentation of current certification by the Behavior Analyst Certification

Board, Inc., or its successor organization;

- (c) Notice of employment and supervision; and
- (d) Payment of the fee as set forth in [NAC 641D.XXX](#).

2. In addition to the requirements of paragraph 1, to renew a registration for the third time and every third renewal thereafter, the registrant shall:

- (a) Submit to a criminal history investigation as prescribed in paragraph (b) of subsection 1 of NRS 641D.300; and

3. Provide proof of submittal to the criminal history investigation completed at least 90 days prior to the expiration of the registration.

4. Continuing education is not required for renewal or reinstatement of a registration as a registered behavior technician.

**Reinstatement of expired license or registration. (NRS 640A.110, 640A.180)**

1. A license or registration that has expired may be reinstated within 60 days from date of expiration upon completion of all renewal requirements required by [NAC 641D.XXX](#) and [NAC 641D.XXX](#) and payment of a late renewal fee. A license or registration so reinstated is retroactive to the date of expiration.

2. A registration as a behavior technician that has been expired more than 60 days may not be reinstated.

3. In addition to any other applicable requirements set forth in [NAC 641D.XXX](#), to reinstate a license as a licensed behavior analyst or licensed assistant behavior analyst that has been expired more than 60 days up to 2 years from date of expiration, a person must:

- (a) Provide proof of current certification in good standing by the Behavior Analyst Certification Board, Inc., or its successor organization;
- (b) Provide proof of the completion of continuing education requirements set forth in [NAC 641D.XXX](#), paragraph 2, within the 2-year period immediately preceding the request for reinstatement;
- (c) Have achieved a passing score on the state examination within the year immediately preceding the request for reinstatement;
- (d) Certify that the licensee has not been practicing applied behavior analysis in the State of Nevada during the period the license has lapsed;

- (d) For the reinstatement of an expired license as a licensed assistant behavior analyst, submit proof of employment and supervision by a licensed behavior analyst upon reinstatement of the license;
  - (e) Provide proof he or she has not been subject to disciplinary action by and does not have any outstanding complaints or charges pending against him or her before:
    - (1) A licensing, or certifying authority of another jurisdiction; or
    - (2) the Behavior Analyst Certification Board, Inc., or successor; and
  - (f) Pay the applicable fees as set forth in [NAC 641D.XXX](#).
4. A license reinstated pursuant to this section shall not be retroactive. A new license number, and effective date of issuance will be assigned.

**Placement of license on inactive status; renewal or restoration to active status.** ([NRS 641D.010](#),

1. Upon written request to the Board and payment of the fee prescribed by [NAC 641D.XXX](#), a licensee may have his or her license placed on inactive status.
2. A person whose license is placed on inactive status shall not engage in the practice of applied behavior analysis, as applicable, during the period in which the license is on inactive status.
3. A person who wishes to renew a license that is placed on inactive status must submit to the Board:
  - (a) An application for the renewal of the license; and
  - (b) The fee for the biennial renewal of a license on inactive status.
4. Continuing education is not required to renew a license on inactive status.
5. A person whose license is placed on inactive status may request to have the license restored to active status. The Board will restore the license to active status upon:
  - (a) The submission of a written request for the restoration of the license;
  - (b) The payment of the appropriate fee as set forth in [NAC 641D.XXX](#) for the restoration to active status of a license on inactive status;
  - (c) The submission of proof of completion of the requirements for continuing education set forth in [NAC 641D.XXX](#) during the 2 years immediately preceding the date of the request;
  - (d) If the applicant has engaged in the practice of applied behavior analysis in

another jurisdiction during the period his or her license was on inactive status, the submission of proof that he or she is in good standing and that there are no disciplinary proceedings pending against him or her in that jurisdiction; and

(e) If the Board considers it necessary, the successful completion of the state examination administered by the Board pursuant to [NAC 641D.xxx](#).

**Continuing education: Requirements for renewal of license as a licensed behavior analyst or licensed assistant behavior analyst; courses. ([NRS 641D.010](#),)**

1. To renew his or her license, a licensee must certify to the Board that during the 2 years immediately preceding the date he or she submits an application for renewal, the applicant has completed continuing education requirements for current certification by the Behavior Analyst Certification Board, Inc., or its successor organization.

2. In addition to the continuing education requirements in subsection (a), a licensee must complete:

(a) At least 2 hours of continuing education on evidence-based suicide prevention and awareness; and

(b) At least 6 hours of continuing education on cultural competency and diversity, equity and inclusion.

3. If a licensee misrepresents the completion of continuing education, he or she will be subject to disciplinary action, including, without limitation, suspension, revocation or nonrenewal of his or her license.

4. To ensure compliance with the provisions of this section, the Board may conduct random audits of the continuing education completed by licensees.

**Continuing education: Extension of requirements for extenuating circumstances.**

([NRS 641D.010](#))

1. The Board may approve an extension for completion of all or part of the requirements for continuing education for a person who holds a license if the person:

(a) Submits a written request for an extension; and

(b) Provides evidence satisfactory to the Board of an extenuating circumstance which does not allow the completion of the required continuing education.



2. Examples of an extenuating circumstance include, without limitation, extreme:
  - (a) Illness or injury;
  - (b) Financial hardship; or
  - (c) Family hardship.
3. If an extension is granted, the requirements for continuing education must be completed within the 60-day reinstatement period allowable for a late renewal of a license.
4. If an extension is not granted, or the continuing education is not completed within the extension period, the Board may deny the license renewal and the license will expire retroactive to the original expiration date.

**Request for verification of license, letter of good standing. (NRS 641D.010)**

1. A person may request that a letter of written verification of his or her license or registration be provided to another organization or state by submitting to the Board:
  - (a) A written request; and
  - (b) Payment of the appropriate fee.
2. A written verification of the license or registration of a person must include, without limitation:
  - (a) The name of the person;
  - (b) The professional title of the person;
  - (c) The license or registration number;
  - (d) Whether the person is in good standing; and
  - (e) Whether any disciplinary action is pending or has been taken against the person.
3. For the purposes of this section, a person is in good standing if the person:
  - (a) Has substantially complied with the laws and regulations governing the practice of applied behavior analysis in this State, or
  - (b) Has been subject to disciplinary action and:
    - (1) The disciplinary action did not result in a suspension or revocation of the license or registration of the person, and
    - (2) The person has successfully completed or is adhering to any terms and conditions imposed by the Board as a result of the disciplinary action.
4. A letter of good standing may be requested pursuant to the provisions of paragraphs 1 and 2 of this section if the person is in compliance with paragraph 3 of this section.

**State examination of applicants for licensure as licensed behavior analyst or licensed assistant behavior analyst: Content; reexamination; fee; prohibited acts.**

[\(NRS 641D.010\)](#)

1. Each applicant for a license as a licensed behavior analyst or a licensed assistant behavior analyst must take and pass the state exam.
2. The state examination will consist of questions addressing the practice of applied behavior analysis, including, without limitation, federal and state laws and regulations relevant to the practice of applied behavior analysis in this State.
3. The state examination must be completed within 30 days from the date of submittal of an application for licensure; and
4. The fee for the state examination must be paid at the time of submittal of the initial application.
5. An applicant who fails the state examination may retake the examination upon payment of the state examination fee.
6. An applicant shall not:
  - (a) Share access to the state examination site;
  - (b) Record the state examination by electronic or other means; or
  - (c) Engage in any other conduct that results in the disclosure of the contents of the state examination.

**Notification of contact and employment information; mailing of notices.** (NRS 641D.010)

1. Each person licensed or registered shall file his or her contact information, current residential address, employer name and employment address with the Board.
2. A person licensed or registered with the Board shall notify the Board within 30 days of any change in employment or contact information.
3. If the Board is required by law or the provisions of this chapter to deliver any notice by mail to a person licensed or registered with the Board, the notice will be mailed to the last residential address of the person which was filed with the Board in accordance with this section.

**Display and alteration of license or registration. (NRS 641D.010)**

A licensee or registered behavior technician:

- (a) Shall display his or her license in a conspicuous place on the premises of his or her office or place of employment. If practicing outside of an office must have his or her license or registration available for production upon request; and
- (b) Shall not alter the license or registration.

**Change of name after issuance of license or registration. (NRS 641D.010)** If a person changes his or her name after his or her license or registration is issued, he or she must submit, within 30 days after the change, proof satisfactory to the Board that his or her name was legally changed and payment of the applicable fee.

**Communication From the Board (NRS 641D.010)**

A licensee or registrant shall respond within 30 days after receiving communication from the Board and shall provide any relevant information and make available any records with respect to the inquiry or request from the Board.

**Fees. (NRS 641D.010,)**

1. The Board will charge and collect the following fees:

(a) For a Behavior Analyst:

For an application for licensure.....	\$100
For the issuance of an initial license.....	400
For the biennial renewal of a license .....	400
Fee for the late renewal of a license	50
For reinstatement of a license	500
For the placement of a license on inactive status.....	100
For the biennial renewal of a license on inactive status.....	100
For the restoration to active status of a license on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed.....	300
For the restoration to active status of a license on inactive status if the restoration occurs during the second year of the biennium in which the license was issued or	

renewed.....	100
 (b) For an Assistant Behavior Analyst	
For an application for licensure.....	\$100
For the issuance of an initial license.....	275
For the biennial renewal of a license.....	275
Fee for the late renewal of a license.....	..50
For reinstatement of a license .....	325
For the biennial renewal of a license on inactive status.....	137.50
For the restoration to active status of a license on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed.....	175
For the restoration to active status of a license on inactive status if the restoration occurs during the second year of the biennium in which the license was issued or renewed... ..	87.50
 (c) For a Registered Behavior Technician	
For the issuance of an initial registration	70
For the biennial renewal of a registration	70
Fee for the late renewal of a registration	50

General:

For the state examination .....	\$100 plus Actual costs
For a dishonored payment.....	25
For a change of name on a license.....	25
For a written verification or letter of good standing.....	25

2. The Board will annually determine the actual costs to the Board for the state examination administered by the Board pursuant to [NAC 641D.XXX](#) or [NAC 641D.XXX](#) for purposes of determining the fee charged and collected pursuant to subsection 1.

3. If an applicant for an initial license or registration is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or

the surviving spouse of a veteran, the Board will charge one-half of the fees set forth in subsection 1 for an initial license or registration of any type.

4. The fees for an initial license or reinstatement of a license expired more than 2 years will be pro-rated quarterly, based upon the date of application or date of request for reinstatement of the license.

**Citation, administrative fine for practicing without a valid license or registration; Board may waive fine under certain circumstances. (NRS 641D.010)**

1. The Board will issue a citation upon a determination that a person has been practicing applied behavior analysis without a valid license or registration. The citation will describe the nature of the violation, the amount assessed as an administrative fine, and the process for appeal of the citation.

2. Except as otherwise provided by subsection 3, the Board will assess against a person practicing applied behavior analysis without a valid license or registration an administrative fine of:

For the first violation:

- (a) for a Behavior Analyst ..... \$ 500
- (b) for an Assistant Behavior Analyst ..... \$ 250
- (c) for a Behavior Technician ..... \$150

For the second violation:

- (a) for a Behavior Analyst .....\$ 1,000
- (b) for an Assistant Behavior Analyst ..... \$ 500
- (c) for a Behavior Technician ..... \$ 300

For the third violation:

- (a) for a Behavior Analyst .....\$ 5,000
- (b) for an Assistant Behavior Analyst ..... \$ 2,000
- (c) for a Behavior Technician ..... \$ 1,000

3. The Board may waive an administrative fine assessed pursuant to subsection 2 upon a finding of good cause by the Board. A person seeking waiver of an administrative fine on

the grounds prescribed by this paragraph shall submit a written request to the Board within 30 days, which must include proof satisfactory to the Board that good cause exists for the Board to waive the administrative fine. As used in this paragraph, "good cause" includes, without limitation

- (a) Illness or injury;
- (b) Financial hardship; or
- (c) Family hardship.

4. The Board upon a determination that a person has been practicing applied behavior analysis without a valid license or registration for a fourth or subsequent time may take legal action pursuant to NRS 641D.910.

## **SUPERVISION**

### **ASSISTANT APPLIED BEHAVIOR ANALYST, REGISTERED BEHAVIOR TECHNICIANS AND UNLICENSED PERSONS**

**“Standards for Supervision of BCaBAs” and “RBT Supervision and Supervisor Requirements”:** Adoption by reference; controlling provisions ([NRS 641D.010](#))

The provisions which set forth the guidelines for supervision for assistant behavior analysts and behavior technicians which are contained in the most recent version of the “Standards for Supervision of BCaBAs” and “RBT Supervision and Supervisor Requirements” provided by the Behavior Analyst Certification Board, Inc., or its successor organization, are hereby adopted by reference and incorporated herein, except to the extent that those provisions conflict with the provisions of [NAC 641D.XXX](#) to [641D.XXX](#), inclusive, in which case the provisions of [NAC 641D.XXX](#) to [641D.XXX](#), inclusive, will control.

#### **Supervisor Qualifications**

A person who provides supervision of a licensed assistant behavior analyst, registered behavior technician or unlicensed person must:

- a. Meet the qualifications required for supervision established by the Behavior Analyst Certification Board, Inc., or its successor organization; and
- b. Hold a license to practice behavior analysis in this State.

**Duties of supervisor regarding preparation and maintenance of records and notification of Board. ([NRS 641D.010](#))**

1. A supervisor shall maintain all records relating to the supervision of an assistant behavior analyst or behavior technician, including, without limitation, the records required to be maintained pursuant to [NAC 641D.XXX](#), for not less than 7 years after the last date of supervision. Upon request, such records must be available for inspection by the Board.
2. A supervisor shall notify the Board within 30 days after his or her supervision of an assistant behavior analyst or behavior technician is completed or terminated.

**STANDARDS OF PRACTICE AND CONDUCT**

**“Ethics Code for Behavior Analysts” and “RBT Ethics Code”: Adoption by reference; controlling provisions ([NRS 641D.010](#))**

The provisions which set forth the standards of practice and conduct licensed behavior analysts, assistant behavior analysts and registered behavior technicians which are contained in the most recent version of the publications provided by the Behavior Analyst Certification Board, Inc., or its successor organization, are hereby adopted by reference and incorporated herein, except to the extent that those provisions conflict with the provisions of [NAC 641D.XXX](#) to [641D.XXX](#), inclusive, in which case the provisions of [NAC 641D.XXX](#) to [641D.XXX](#), inclusive, will control.

**Applicability. ([NRS 641D.010](#))**

1. The provisions of [NAC 641D.XXX](#) to [641D.XXX](#), inclusive:
  - (a) Apply to the conduct of any licensee, registrant or any applicant for licensure or registration pursuant to this chapter and [chapter 641D](#) of NRS, including conduct during any period of education, training or employment required for licensure.
  - (b) Constitute the standards of conduct which a licensee or registrant shall follow in the provision of services.
2. A violation of the provisions of [NAC 641D.xxx](#) to [641D.xxx](#) inclusive, constitutes unprofessional conduct and is a ground for disciplinary action or the denial of

an application for an initial license, registration or the renewal or reinstatement of a license or registration.

**Authority of parent or legal guardian to make decisions concerning treatment; issues for which child or protected person is patient or client. ([NRS 641D.010](#))** If a licensee is treating a child or protected person, the parent or legal guardian of the child or protected person is the patient or client for the purpose of making decisions concerning treatment. The child or protected person who is receiving services from the licensee is also the patient or client for:

1. Issues directly affecting the physical or emotional safety of the child or protected person, including, without limitation, sexual relationships or other exploitive dual relationships.
2. Issues which the parent or legal guardian has specifically agreed, before the child or protected person receives professional services, must be reserved to the child or protected person, including, without limitation, confidential communications between the licensee and the child or protected person during the course of the professional relationship.

**Maintenance and availability of records. ([NRS 641D.010](#))**

1. A licensee shall maintain the record of each patient or client for not less than 7 years after the last date that service was rendered to the patient or client, except that the record of a patient or client who is a minor must be maintained for not less than 7 years after the last date that service was rendered or 1 year after the patient or client reaches 21 years of age, whichever is longer. A licensee shall comply with all other state and federal laws and regulations concerning the maintenance of records, including a law or regulation which requires him or her to maintain records for a longer period than required by this subsection.
2. A licensee shall comply with all state and federal laws governing a patient's or client's right to have access to his or her records.

**NAC 641D.224 Confidential information. ([NRS 641D.100](#), [641D.232](#))**

1. During the course of a professional relationship with a patient or client and



after the relationship is terminated, a licensee shall protect all confidential information obtained in the course of his or her practice, teaching or research, or in the performance of any other services related to his or her profession. Except as otherwise provided in this section, a licensee may disclose confidential information only if he or she obtains the informed written consent of the patient or client.

2. A licensee may disclose confidential information without the informed written consent of a patient or client if:

(a) A member of the judiciary, or a court magistrate or administrator to whom authority has been lawfully delegated, orders the disclosure; or

(b) Disclosure is required by a state or federal law or regulation, including a law or regulation that requires a licensee to report the abuse of a child or elderly person.

**Aiding in unlawful practice of applied behavior analysis; improper delegation of professional responsibilities; reporting of violation and exception. ([NRS 641D.010](#))**

1. A licensee or registered behavior technician shall not:

(a) Aid or abet another person in misrepresenting the person's professional credentials or illegally engaging in the practice of applied behavior analysis.

(b) Delegate any of his or her professional responsibilities to a person he or she knows, or has reason to know, is not qualified because of a lack of adequate education, training or experience.

2. If a licensee or registrant has substantial reason to believe that another person has violated any provision of this chapter or [chapter 641D](#) of NRS, he or she shall inform the Board in writing of the violation, except that if the person has knowledge of the violation because of his or her professional relationship with a patient or client, he or she may report the violation only if he or she has the informed written consent of the patient or client. The provisions of [NAC 641D.200](#) to [641D.255](#), inclusive, do not relieve a person of the duty to file any report otherwise required by state or federal law or regulation.

**Violation of law or regulation; use of fraud, misrepresentation or deception; improper filing of reports; violation of probation; failure to pay child support or to comply with certain warrants or subpoenas relating to determination of paternity or child support. ([NRS 641D.010](#))**

A licensee or registrant shall not:

1. Violate any law or regulation which governs the practice of applied behavior analysis, as applicable.
2. Use fraud, misrepresentation or deception:
  - (a) To obtain a license or registration, or pass an examination required for licensure or registration;
  - (b) To assist another person in obtaining a license or registration, or passing an examination required for licensure or registration;
  - (c) In billing a patient or client or another person who is responsible for payment;
  - (d) In providing his or her professional services;
  - (e) In reporting the results of any evaluation or service related to the practice of applied behavior analysis, or
  - (f) To conduct any other activity related to the practice of applied behavior analysis, as applicable.
3. Willfully make or file any false report, fail to file any report required by law or by the Board, willfully impede or obstruct any such filing, or induce another person to engage in any act prohibited by this subsection.
4. Violate any condition, limitation or term of probation imposed upon him or her by the Board.
5. Fail to make timely payments for the support of one or more children pursuant to a court order; or
6. Fail to comply with any warrant or subpoena relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of one or more children.
7. Failure to comply with the mandatory reporting requirements for abuse or neglect of a child required pursuant to NRS 432B.220.

## DISCIPLINARY ACTION

### **Complaints against Applied Behavior Analyst, Assistant Behavior Analyst or Registered Behavior Technician. (NRS 641D.010)**

1. Any person who believes that another person licensed or registered by the Board has violated a provision of this chapter or chapter 641D of NRS may file a complaint with the Board on a form provided by the Board.
2. The Board may, on its own, initiate a complaint against a person licensed by the Board.
3. A complaint must, without limitation:
  - (a) Identify one or more grounds for disciplinary action; and
  - (b) Contain a statement of facts in sufficient detail to enable the Board to understand the allegations.
4. The Executive Director of the Board, in consultation with legal counsel, shall review each complaint and decide if the complaint merits an investigation.
5. The Executive Director of the Board shall bring before the Board any complaint found to have merit.
6. For any proceedings regarding a complaint filed against an assistant behavior analyst or behavior technician, the Board may require that the person be accompanied by the supervisor who signed, dated or reviewed a record regarding a patient related to the complaint.

**Acts constituting unprofessional conduct. (NRS 641D.010)** In addition to those acts specified in NRS 641D.700, the following acts, among others, constitute "unprofessional conduct":

1. Engaging in the practice of applied behavior analysis when unable to do so with reasonable skill and safety to patients because of the use of alcohol or any controlled substance, or because of any mental or physical condition or illness suffered by the licensee or registrant;
2. Being guilty of negligence in the performance of applied behavior analysis;
3. Allowing another person to use the license or registration issued to the licensee or registrant;
4. Failing to report or otherwise concealing information related to a violation of this chapter

- or NRS 641D.xxx which could result in harm to the public health and welfare;
5. Intentionally making or filing a false or misleading report;
  6. Failing to file a report which is required by law or a third person or intentionally obstructing or attempting to obstruct another person from filing such a report;
  7. Intentionally harassing, abusing or intimidating a patient, employer, employee, colleague or other person, either physically or verbally, including, without limitation, sexual harassment, abuse or intimidation;
  8. Failing to notify the Board of disciplinary action imposed upon the licensee, registrant or applicant for licensure or registration by a regulatory authority in another jurisdiction in which the licensee, registrant or applicant currently holds or held a license or registration;
  9. Divulging, without the consent of the patient, information gained within the context of the professional relationship with the patient, unless otherwise required by law;
  10. Failing to obtain the informed consent of a patient before engaging in scientific research involving the patient;
  11. Violating a provision of the “Ethics Code for Behavior Analyst” or “RBT Ethics Code” adopted by reference in NAC 641D.xxx;
  12. Violating a provision of the “Standards for Supervision of BCaBAs” and “RBT Supervision and Supervisor Requirements” adopted by reference in NAC 641D.xxx;
  13. Referring or appearing to refer a patient to a third person to receive a fee or other consideration from the third person;
  14. Recommending or prescribing therapeutic devices or modalities sold by a third person to receive a fee or other consideration from the third person;
  15. Advertising in a manner that tends to deceive or mislead the public or advertising deceptive or misleading information;
  16. Making false statements, providing false information or omitting pertinent information in connection with an application for or renewal of a license or registration;
  17. Misrepresenting or falsifying credentials, including, without limitation, those relating to education, training, experience and areas of competency;
  18. Practicing or offering to practice beyond the scope authorized by law; or
  19. Performing professional services which the licensee knows he or she is not competent to perform.

**Criminal acts constituting grounds for disciplinary action (NRS 641D.010)**

In addition to the grounds specified in NRS 641D.700 and section XXX of this regulation, the Board may take disciplinary action against a behavior analyst, assistant behavior analyst or registered behavior analyst who:

(a) Is convicted of:

- (1) Murder, voluntary manslaughter or mayhem;
- (2) Assault or battery with intent to kill or to commit sexual assault or mayhem,
- (3) Sexual assault, statutory sexual seduction, incest or lewdness, indecent exposure, prostitution, solicitation for prostitution or any other sexually related crime;
- (4) A crime involving domestic violence;
- (5) Abuse or neglect of a child or contributory delinquency;
- (6) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;
- (7) Abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
- (8) A violation of any provision of NRS 422.450 to 422.590, inclusive;
- (9) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;
- (10) Any felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or
- (11) An attempt or conspiracy to commit any of the offenses listed in this paragraph.
- (12) Has a substantiated report of child abuse or neglect filed against him or her and practices applied behavior analysis for a facility, hospital, agency, program or home, as defined in NRS 449.119, that provides residential services to children.

2. The license of a behavior analyst, assistant behavior analyst or registration of a registered behavior technician who is charged with a crime listed in paragraph (a) of subsection 1 is automatically suspended pending a hearing to be held by the Board not later than 14 days after the suspension. At the hearing, the Board may determine to continue the suspension until final resolution of the criminal charges if it finds by a preponderance of

the evidence that the behavior analyst, assistant behavior analyst or registered behavior technician committed the crime with which he or she is charged.

3. A behavior analyst, assistant behavior analyst or registered behavior technician shall provide written notice to the Board within 24 hours after being charged with a crime listed in paragraph (a) of subsection 1.

4. The Board may impose disciplinary action upon finding by a preponderance of the evidence that any of the grounds for disciplinary action listed in this section or [NRS 641D.XXX](#) exist.

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

**Unprofessional conduct: Imposition of conditions on use of license.** (NRS 641D.010) If the Board determines that a licensed behavior analyst, license assistant behavior analyst or registered behavior technician is guilty of unprofessional conduct pursuant to NRS 641D.XXX and does not suspend or revoke his or her license, the Board will impose, as it deems appropriate, one or more of the following conditions on the use of that license or registration:

1. The acceptance of a public reprimand by the Board;
2. Impose a fine of not more than \$5,000;
3. Probation for a specified period or until further order of the Board;
3. Restrict or limit the scope of practice;
4. Counseling, remedial education or treatment approved by the Board;
5. Supervision of his or her professional work by a person approved by the Board;
6. Payment of restitution to a patient of all money collected in connection with the unprofessional conduct;
7. The successful completion of a physical or mental examination or an examination testing the competence of the person; or
8. Such other disciplinary action as the Board considers necessary and appropriate.

**Referral to and disposition of complaints by the Behavior Analyst Certification Board, Inc., or successor organization.** (NRS 641D.010)

1. Upon a determination that a complaint filed with the Board alleges violation of any

document of the Behavior Analyst Certification Board, Inc., or successor organization adopted by reference in [NAC 641D.XXX](#), the complaint shall be referred to the Behavior Analyst Certification Board, Inc., or successor organization, for further investigation and disposition.

2. If the Behavior Analyst Certification Board, Inc., or successor organization, finds the allegations substantiated and imposes disciplinary action, the Board will accept the findings of the Behavior Analyst Certification Board, Inc., or successor organization, and deem the complaint valid. The Board may impose disciplinary action pursuant to the provisions of NAC 641D.XXX.

**Recovery by Board of attorney's fees and costs.** (NRS 641D.010) Pursuant to NRS 622.400, the Board may recover from a person reasonable attorney's fees and costs relating to any disciplinary proceedings involving the person.

**Fees and expenses of witnesses. (NRS 641D.010)**

A witness who participates in a proceeding held by the Board is entitled to receive fees and reimbursement for mileage in the same amounts and under the same conditions as for witnesses in the courts of this state.

**PROCEEDINGS BEFORE THE BOARD**

**Action by Board on its own motion; petition for adoption, amendment or repeal of regulation or for hearing. (NRS 641D.010)**

1. The Board may act on its own motion. Any other request for the adoption, amendment or repeal of a regulation of the Board or for a formal hearing by the Board must be submitted to the Board as a petition.
2. Any interested person may submit a petition to the Board for the adoption, amendment or repeal of a regulation of the Board or for a formal hearing by the Board.
3. The petition must be in writing and addressed to the President of the Board.
4. An original and two legible copies of the petition must be filed with the Board. The Board may, when appropriate, direct that a copy of each petition be made available to any

other person who the Board determines may be affected by the petition.

5. The petition must contain:

- (a) The full name and mailing address of the petitioner;
- (b) If the adoption of a new regulation is proposed, the body or substance of the proposed regulation and the supporting facts and arguments;
- (c) If the amendment or repeal of an existing regulation is proposed, the NAC citation of the regulation and the supporting facts and arguments;
- (d) If a formal hearing by the Board is requested, the relevant facts which support the request; and
- (e) A statement that the petition is made in accordance with the applicable provisions of the NRS.

6. The petition must be signed by the petitioner. The signature constitutes a representation by the signer that:

- (a) He or she has read the petition;
- (b) To the best of his or her knowledge, information and belief, the statements made therein are true; and
- (c) The petition is not interposed for delay.

7. Upon receipt of such a petition, the Board will, if necessary, request the petitioner to clarify the request.