

ASSEMBLY BILL NO. 53—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2014

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to administrative procedure. (BDR 18-160)

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

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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 administrative procedure; revising provisions governing the standard of proof in administrative hearings; making various other changes to the Nevada Administrative Procedure Act; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Nevada Administrative Procedure Act sets forth the minimum procedural
2 requirements for the adjudication procedure of agencies of the Executive
3 Department of the State Government that are subject to the Act. (NRS 233B.020)
4 With certain exceptions, existing law allows costs to the prevailing party against
5 any adverse party against whom judgment is rendered in certain civil actions. (NRS
6 18.020) **Sections 3 and 12** of this bill prohibit the award of costs in any proceeding
7 commenced by the filing of a petition for judicial review. (NRS 233B.130)
8 **Section 5** of this bill provides that an informal disposition of a contested case
9 under the Act may include the voluntary surrender of a license and, with respect to
10 a contested case involving a license, will constitute disciplinary action against the
11 licensee. **Section 5** also requires a party who requests the transcription of oral
12 proceedings to pay for the costs of the transcription.
13 Under the Act, applications for the grant, denial or renewal of a license are a
14 contested case for purposes of the application of the procedural requirements of the
15 Act only if notice and opportunity for hearing are required to be provided to the
16 applicant before the grant, denial or renewal of the license. (NRS 233B.127)
17 **Section 8** of this bill clarifies that, to be a contested case, the provision of notice
18 and opportunity for hearing must be required by statute or regulation.
19 **Section 9** of this bill specifies the manner in which a petition for judicial
20 review is required to be served. **Section 10** of this bill extends from 30 days to 45



21 days the period after the service of a petition for judicial review in which certain
22 records are required to be transmitted to the reviewing court and also imposes a
23 duty on the party who filed the petition to transmit to the reviewing court an
24 original or certified copy of the transcript of the evidence. **Section 13** of this bill
25 makes it discretionary instead of mandatory for a regulatory body that initiates
26 disciplinary proceedings against a licensee to require the licensee to submit his or
27 her fingerprints.

28 The Nevada Supreme Court recently clarified that the standard of proof that is
29 required to be used by administrative agencies in administrative hearings is a
30 preponderance of the evidence. (*Nassiri v. Chiropractic Physicians' Board of*
31 *Nevada*, 130 Nev. Adv. Op. No. 27, 327 P.3d 487 (2014)) **Sections 1, 5, 7, 11 and**
32 **14-27** of this bill revise the standard of proof for administrative hearings in existing
33 law to conform to the preponderance-of-the-evidence standard in the *Nassiri*
34 opinion.

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

1 **Section 1.** Chapter 233B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Preponderance of the evidence” means evidence*
4 *that enables a trier of fact to determine that the existence of the*
5 *contested fact is more probable than the nonexistence of the*
6 *contested fact.*

7 **Sec. 3.** *Costs must not be allowed in any proceeding*
8 *commenced by the filing of a petition for judicial review pursuant*
9 *to NRS 233B.130.*

10 **Sec. 4.** NRS 233B.030 is hereby amended to read as follows:
11 233B.030 As used in this chapter, unless the context otherwise
12 requires, the words and terms defined in NRS 233B.031 to
13 233B.0385, inclusive, *and section 2 of this act*, have the meanings
14 ascribed to them in those sections.

15 **Sec. 5.** NRS 233B.121 is hereby amended to read as follows:
16 233B.121 1. In a contested case, all parties must be afforded
17 an opportunity for hearing after reasonable notice.

18 2. The notice must include:

19 (a) A statement of the time, place and nature of the hearing.

20 (b) A statement of the legal authority and jurisdiction under
21 which the hearing is to be held.

22 (c) A reference to the particular sections of the statutes and
23 regulations involved.

24 (d) A short and plain statement of the matters asserted. If the
25 agency or other party is unable to state the matters in detail at the
26 time the notice is served, the initial notice may be limited to a
27 statement of the issues involved. Thereafter, upon application, a
28 more definite and detailed statement must be furnished.

29 3. Any party is entitled to be represented by counsel.



1 4. Opportunity must be afforded all parties to respond and
2 present evidence and argument on all issues involved. An agency
3 may by regulation authorize the payment of fees and reimbursement
4 for mileage to witnesses in the same amounts and under the same
5 conditions as for witnesses in the courts of this state.

6 5. Unless precluded by law, informal disposition may be made
7 of any contested case by stipulation, agreed settlement, consent
8 order or default ~~[]~~ *and may include, without limitation, the*
9 *voluntary surrender of a license. An agency shall consider an*
10 *informal disposition of a contested case involving a license to*
11 *constitute disciplinary action against the licensee.* If an informal
12 disposition is made, the parties may waive the requirement for
13 findings of fact and conclusions of law.

14 6. The record in a contested case must include:

15 (a) All pleadings, motions and intermediate rulings.

16 (b) Evidence received or considered.

17 (c) A statement of matters officially noticed.

18 (d) Questions and offers of proof and objections, and rulings
19 thereon.

20 (e) Proposed findings and exceptions.

21 (f) Any decision, opinion or report by the hearing officer
22 presiding at the hearing.

23 7. Oral proceedings, or any part thereof, must be transcribed on
24 request of any party. *The party making the request shall pay all the*
25 *costs for the transcription.*

26 8. Findings of fact must be based exclusively on ~~[substantial]~~ *a*
27 *preponderance of the* evidence and on matters officially noticed.

28 **Sec. 6.** NRS 233B.123 is hereby amended to read as follows:

29 233B.123 In contested cases:

30 1. Irrelevant, immaterial or unduly repetitious evidence must
31 be excluded. Evidence may be admitted, except where precluded by
32 statute, if it is of a type commonly relied upon by reasonable and
33 prudent persons in the conduct of their affairs. Agencies shall give
34 effect to the rules of privilege recognized by law. Objections to
35 evidentiary offers may be made and must be noted in the record.
36 Subject to the requirements of this subsection, when a hearing will
37 be expedited and the interests of the parties will not be prejudiced
38 substantially, any part of the evidence may be received in written
39 form.

40 2. Documentary evidence may be received in the form of
41 authenticated copies or excerpts . ~~[, if the original is not readily~~
42 ~~available.]~~ Upon request, parties must be given an opportunity to
43 compare the copy with the original.

44 3. Every witness shall declare, by oath or affirmation, that he
45 or she will testify truthfully.



1 4. Each party may call and examine witnesses, introduce
2 exhibits, cross-examine opposing witnesses on any matter relevant
3 to the issues even though the matter was not covered in the direct
4 examination, impeach any witness, regardless of which party first
5 called the witness to testify, and rebut the evidence against him or
6 her.

7 5. Notice may be taken of judicially cognizable facts and of
8 generally recognized technical or scientific facts within the
9 specialized knowledge of the agency. Parties must be notified either
10 before or during the hearing, or by reference in preliminary reports
11 or otherwise, of the material noticed, including any staff memoranda
12 or data, and they must be afforded an opportunity to contest the
13 material so noticed. The experience, technical competence and
14 specialized knowledge of the agency may be utilized in the
15 evaluation of the evidence.

16 **Sec. 7.** NRS 233B.125 is hereby amended to read as follows:

17 233B.125 A decision or order adverse to a party in a contested
18 case must be in writing or stated in the record. Except as provided in
19 subsection 5 of NRS 233B.121, a final decision must include
20 findings of fact and conclusions of law, separately stated. Findings
21 of fact and decisions must be based upon ~~[substantial]~~ *a*
22 *preponderance of the* evidence. Findings of fact, if set forth in
23 statutory language, must be accompanied by a concise and explicit
24 statement of the underlying facts supporting the findings. If, in
25 accordance with agency regulations, a party submitted proposed
26 findings of fact ~~[]~~ *before the commencement of the hearing*, the
27 decision must include a ruling upon each proposed finding. Parties
28 must be notified either personally or by certified mail of any
29 decision or order. Upon request a copy of the decision or order must
30 be delivered or mailed forthwith to each party and to the party's
31 attorney of record.

32 **Sec. 8.** NRS 233B.127 is hereby amended to read as follows:

33 233B.127 1. ~~[When]~~ *The provisions of NRS 233B.121 to*
34 *233B.150, inclusive, and section 3 of this act do not apply to* the
35 grant, denial or renewal of a license ~~[is required to be preceded by]~~
36 *unless* notice and opportunity for hearing ~~[, the provisions of this~~
37 ~~chapter concerning contested cases apply.]~~ *are required by law to be*
38 *provided to the applicant before the grant, denial or renewal of the*
39 *license.*

40 2. When a licensee has made timely and sufficient application
41 for the renewal of a license or for a new license with reference to
42 any activity of a continuing nature, the existing license does not
43 expire until the application has been finally determined by the
44 agency and, in case the application is denied or the terms of the new



1 license limited, until the last day for seeking review of the agency
2 order or a later date fixed by order of the reviewing court.

3 3. No revocation, suspension, annulment or withdrawal of any
4 license is lawful unless, before the institution of agency
5 proceedings, the agency gave notice by certified mail to the licensee
6 of facts or conduct which warrant the intended action, and the
7 licensee was given an opportunity to show compliance with all
8 lawful requirements for the retention of the license. If the agency
9 finds that public health, safety or welfare imperatively require
10 emergency action, and incorporates a finding to that effect in its
11 order, summary suspension of a license may be ordered pending
12 proceedings for revocation or other action. An agency's order of
13 summary suspension may be issued by the agency or by the Chair of
14 the governing body of the agency. If the order of summary
15 suspension is issued by the Chair of the governing body of the
16 agency, the Chair shall not participate in any further proceedings of
17 the agency relating to that order. Proceedings relating to the order of
18 summary suspension must be instituted and determined within 45
19 days after the date of the order unless the agency and the licensee
20 mutually agree in writing to a longer period.

21 **Sec. 9.** NRS 233B.130 is hereby amended to read as follows:

22 233B.130 1. Any party who is:

23 (a) Identified as a party of record by an agency in an
24 administrative proceeding; and

25 (b) Aggrieved by a final decision in a contested case,
26 ↪ is entitled to judicial review of the decision. Where appeal is
27 provided within an agency, only the decision at the highest level is
28 reviewable unless a decision made at a lower level in the agency
29 is made final by statute. Any preliminary, procedural or intermediate
30 act or ruling by an agency in a contested case is reviewable if review
31 of the final decision of the agency would not provide an adequate
32 remedy.

33 2. Petitions for judicial review must:

34 (a) Name as respondents the agency and all parties of record to
35 the administrative proceeding;

36 (b) Be instituted by filing a petition in the district court in and
37 for Carson City, in and for the county in which the aggrieved party
38 resides or in and for the county where the agency proceeding
39 occurred; ~~and~~

40 (c) *Be served upon:*

41 *(1) The Attorney General, or a person designated by the*
42 *Attorney General, at the Office of the Attorney General in Carson*
43 *City; and*



1 ***(2) The person serving in the office of administrative head***
2 ***of the named agency; and***

3 ***(d)*** Be filed within 30 days after service of the final decision of
4 the agency.

5 ↪ Cross-petitions for judicial review must be filed within 10 days
6 after service of a petition for judicial review.

7 3. The agency and any party desiring to participate in the
8 judicial review must file a statement of intent to participate in the
9 petition for judicial review and serve the statement upon the agency
10 and every party within 20 days after service of the petition.

11 4. A petition for rehearing or reconsideration must be filed
12 within 15 days after the date of service of the final decision. An
13 order granting or denying the petition must be served on all parties
14 at least 5 days before the expiration of the time for filing the petition
15 for judicial review. If the petition is granted, the subsequent order
16 shall be deemed the final order for the purpose of judicial review.

17 5. The petition for judicial review and any cross-petitions for
18 judicial review must be served upon the agency and every party
19 within 45 days after the filing of the petition, unless, upon a
20 showing of good cause, the district court extends the time for such
21 service. If the proceeding involves a petition for judicial review or
22 cross-petition for judicial review of a final decision of the State
23 Contractors' Board, the district court may, on its own motion or the
24 motion of a party, dismiss from the proceeding any agency or
25 person who:

26 (a) Is named as a party in the petition for judicial review or
27 cross-petition for judicial review; and

28 (b) Was not a party to the administrative proceeding for which
29 the petition for judicial review or cross-petition for judicial review
30 was filed.

31 6. The provisions of this chapter are the exclusive means of
32 judicial review of, or judicial action concerning, a final decision in a
33 contested case involving an agency to which this chapter applies.

34 **Sec. 10.** NRS 233B.131 is hereby amended to read as follows:

35 233B.131 1. Within ~~30~~ 45 days after the service of the
36 petition for judicial review or such time as is allowed by the court ~~t~~
37 ~~he~~:

38 ***(a) The party who filed the petition for judicial review shall***
39 ***transmit to the reviewing court an original or certified copy of the***
40 ***transcript of the evidence resulting in the final decision of the***
41 ***agency.***

42 ***(b) The*** agency that rendered the decision which is the subject of
43 the petition shall transmit to the reviewing court the original or a
44 certified copy of the ~~entire~~ ***remainder of the*** record of the



1 proceeding under review . ~~[, including a transcript of the evidence~~
2 ~~resulting in the final decision of the agency.]~~

3 ↳ The record may be shortened by stipulation of the parties to the
4 proceedings. A party unreasonably refusing to stipulate to limit the
5 record, as determined by the court, may be assessed by the court any
6 additional costs. The court may require or permit subsequent
7 corrections or additions to the record.

8 2. If, before submission to the court, an application is made to
9 the court for leave to present additional evidence, and it is shown
10 to the satisfaction of the court that the additional evidence is
11 material and that there were good reasons for failure to present it in
12 the proceeding before the agency, the court may order that the
13 additional evidence and any rebuttal evidence be taken before the
14 agency upon such conditions as the court determines.

15 3. After receipt of any additional evidence, the agency:

16 (a) May modify its findings and decision; and

17 (b) Shall file the evidence and any modifications, new findings
18 or decisions with the reviewing court.

19 **Sec. 11.** NRS 233B.135 is hereby amended to read as follows:

20 233B.135 1. Judicial review of a final decision of an agency
21 must be:

22 (a) Conducted by the court without a jury; and

23 (b) Confined to the record.

24 ↳ In cases concerning alleged irregularities in procedure before an
25 agency that are not shown in the record, the court may receive
26 evidence concerning the irregularities.

27 2. The final decision of the agency shall be deemed reasonable
28 and lawful until reversed or set aside in whole or in part by the
29 court. The burden of proof is on the party attacking or resisting the
30 decision to show that the final decision is invalid pursuant to
31 subsection 3.

32 3. The court shall not substitute its judgment for that of the
33 agency as to the weight of evidence on a question of fact. The court
34 may remand or affirm the final decision or set it aside in whole or in
35 part if substantial rights of the petitioner have been prejudiced
36 because the final decision of the agency is:

37 (a) In violation of constitutional or statutory provisions;

38 (b) In excess of the statutory authority of the agency;

39 (c) Made upon unlawful procedure;

40 (d) Affected by other error of law;

41 (e) Clearly erroneous in view of the reliable ~~[]~~ **and** probative
42 ~~[and substantial]~~ evidence on the whole record; or

43 (f) Arbitrary or capricious or characterized by abuse of
44 discretion.



1 **Sec. 12.** NRS 18.020 is hereby amended to read as follows:

2 18.020 ~~[Costs]~~ *Except as otherwise provided in section 3 of*
3 *this act, costs* must be allowed of course to the prevailing party
4 against any adverse party against whom judgment is rendered, in the
5 following cases:

6 1. In an action for the recovery of real property or a possessory
7 right thereto.

8 2. In an action to recover the possession of personal property,
9 where the value of the property amounts to more than \$2,500. The
10 value must be determined by the jury, court or master by whom the
11 action is tried.

12 3. In an action for the recovery of money or damages, where
13 the plaintiff seeks to recover more than \$2,500.

14 4. In a special proceeding, except a special proceeding
15 conducted pursuant to NRS 306.040.

16 5. In an action which involves the title or boundaries of real
17 estate, or the legality of any tax, impost, assessment, toll or
18 municipal fine, including the costs accrued in the action if originally
19 commenced in a Justice Court.

20 **Sec. 13.** NRS 622.360 is hereby amended to read as follows:

21 622.360 1. If a regulatory body initiates disciplinary
22 proceedings against a licensee pursuant to this title, the *regulatory*
23 *body may require the* licensee ~~[shall, within 30 days after the~~
24 ~~licensee receives notification of the initiation of the disciplinary~~
25 ~~proceedings.]~~ *to* submit to the regulatory body a complete set of his
26 or her fingerprints and written permission authorizing the regulatory
27 body to forward the fingerprints to the Central Repository for
28 Nevada Records of Criminal History for submission to the Federal
29 Bureau of Investigation for its report.

30 2. The willful failure of the licensee to comply with the
31 requirements of subsection 1 constitutes an additional ground for the
32 regulatory body to take disciplinary action against the licensee,
33 including, without limitation, suspending or revoking the license of
34 the licensee.

35 3. A regulatory body has an additional ground for taking
36 disciplinary action against the licensee if:

37 (a) The report from the Federal Bureau of Investigation indicates
38 that the licensee has been convicted of an unlawful act that is a
39 ground for taking disciplinary action against the licensee pursuant to
40 this title; and

41 (b) The regulatory body has not taken any prior disciplinary
42 action against the licensee based on that unlawful act.

43 4. To the extent possible, the provisions of this section are
44 intended to supplement other statutory provisions governing
45 disciplinary proceedings. If there is a conflict between such other



1 provisions and the provisions of this section, the other provisions
2 control to the extent that the other provisions provide more specific
3 requirements regarding the discipline of a licensee.

4 **Sec. 14.** NRS 622A.370 is hereby amended to read as follows:

5 622A.370 1. The prosecutor has the burden of proof in any
6 hearing pursuant to this chapter. The standard of proof in such a
7 hearing is ~~substantial~~ *a preponderance of the* evidence.

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

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

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

21 *5. As used in this section, "preponderance of the evidence"*
22 *has the meaning ascribed to it in section 2 of this act.*

23 **Sec. 15.** Chapter 631 of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 *"Preponderance of the evidence" has the meaning ascribed to*
26 *it in section 2 of this act.*

27 **Sec. 16.** NRS 631.005 is hereby amended to read as follows:

28 631.005 As used in this chapter, unless the context otherwise
29 requires, the words and terms defined in NRS 631.015 to 631.105,
30 inclusive, *and section 15 of this act*, have the meanings ascribed to
31 them in those sections.

32 **Sec. 17.** NRS 631.255 is hereby amended to read as follows:

33 631.255 1. The Board may, without a clinical examination
34 required by NRS 631.240, issue a specialist's license to a person
35 who:

36 (a) Presents a current certification as a diplomate from a
37 certifying board approved by the Commission on Dental
38 Accreditation of the American Dental Association; or

39 (b) Has completed the educational requirements specified for
40 certification in a specialty area by a certifying board approved by
41 the Commission on Dental Accreditation of the American Dental
42 Association and is recognized by the certifying board as being
43 eligible for that certification. A person who is licensed as a
44 specialist pursuant to the provisions of this paragraph:



1 (1) Shall submit to the Board his or her certificate as a
2 diplomate from the certifying board within 6 years after licensure as
3 a specialist; and

4 (2) Must maintain certification as a diplomate of the
5 certifying board during the period in which the person is licensed as
6 a specialist pursuant to this paragraph.

7 2. In addition to the requirements set forth in subsection 1, a
8 person applying for a specialist's license:

9 (a) Must hold an active license to practice dentistry pursuant to
10 the laws of another state or territory of the United States, or the
11 District of Columbia, or pursuant to the laws of this State, another
12 state or territory of the United States, or the District of Columbia, if
13 the person is applying pursuant to paragraph (b) of subsection 1;

14 (b) Must be a specialist as identified by the Board;

15 (c) Shall pay the application, examination and renewal fees in
16 the same manner as a person licensed pursuant to NRS 631.240;

17 (d) Must submit all information required to complete an
18 application for a license; and

19 (e) Must satisfy the requirements of NRS 631.230.

20 3. The Board shall not issue a specialist's license to a person:

21 (a) Whose license to practice dentistry has been revoked or
22 suspended;

23 (b) Who has been refused a license to practice dentistry; or

24 (c) Who is involved in or has pending a disciplinary action
25 concerning a license to practice dentistry,

26 ↪ in this State, another state or territory of the United States, or the
27 District of Columbia.

28 4. The Board shall examine each applicant in writing on the
29 contents and interpretation of this chapter and the regulations of the
30 Board.

31 5. A person to whom a specialist's license is issued pursuant to
32 this section shall limit his or her practice to the specialty.

33 6. The Board may revoke a specialist's license at any time
34 ~~[upon submission of substantial evidence to]~~ if the Board *finds, by a*
35 *preponderance of the evidence*, that the holder of the license
36 violated any provision of this chapter or the regulations of the
37 Board.

38 **Sec. 18.** NRS 631.271 is hereby amended to read as follows:

39 631.271 1. The Board shall, without a clinical examination
40 required by NRS 631.240 or 631.300, issue a limited license to
41 practice dentistry or dental hygiene to a person who:

42 (a) Is qualified for a license to practice dentistry or dental
43 hygiene in this State;

44 (b) Pays the required application fee;

45 (c) Has entered into a contract with:



1 (1) The Nevada System of Higher Education to provide
2 services as a dental intern, dental resident or instructor of dentistry
3 or dental hygiene at an educational or outpatient clinic, hospital or
4 other facility of the Nevada System of Higher Education; or

5 (2) An accredited program of dentistry or dental hygiene of
6 an institution which is accredited by a regional educational
7 accrediting organization that is recognized by the United States
8 Department of Education to provide services as a dental intern,
9 dental resident or instructor of dentistry or dental hygiene at an
10 educational or outpatient clinic, hospital or other facility of the
11 institution and accredited by the Commission on Dental
12 Accreditation of the American Dental Association or its successor
13 specialty accrediting organization;

14 (d) Satisfies the requirements of NRS 631.230 or 631.290, as
15 appropriate; and

16 (e) Satisfies at least one of the following requirements:

17 (1) Has a license to practice dentistry or dental hygiene
18 issued pursuant to the laws of another state or territory of the United
19 States, or the District of Columbia;

20 (2) Presents to the Board a certificate granted by the Western
21 Regional Examining Board which contains a notation that the
22 person has passed, within the 5 years immediately preceding the
23 date of the application, a clinical examination administered by
24 the Western Regional Examining Board;

25 (3) Successfully passes a clinical examination approved by
26 the Board and the American Board of Dental Examiners; or

27 (4) Has the educational or outpatient clinic, hospital or other
28 facility where the person will provide services as a dental intern or
29 dental resident in an internship or residency program submit to the
30 Board written confirmation that the person has been appointed to a
31 position in the program and is a citizen of the United States or is
32 lawfully entitled to remain and work in the United States. If a person
33 qualifies for a limited license pursuant to this subparagraph, the
34 limited license remains valid only while the person is actively
35 providing services as a dental intern or dental resident in the
36 internship or residency program, is lawfully entitled to remain and
37 work in the United States and is in compliance with all other
38 requirements for the limited license.

39 2. The Board shall not issue a limited license to a person:

40 (a) Who has been issued a license to practice dentistry or dental
41 hygiene if:

42 (1) The person is involved in a disciplinary action concerning
43 the license; or

44 (2) The license has been revoked or suspended; or



1 (b) Who has been refused a license to practice dentistry or dental
2 hygiene,
3 in this State, another state or territory of the United States, or the
4 District of Columbia.

5 3. Except as otherwise provided in subsection 4, a person to
6 whom a limited license is issued pursuant to subsection 1:

7 (a) May practice dentistry or dental hygiene in this State only:

8 (1) At the educational or outpatient clinic, hospital or other
9 facility where the person is employed; and

10 (2) In accordance with the contract required by paragraph (c)
11 of subsection 1.

12 (b) Shall not, for the duration of the limited license, engage in
13 the private practice of dentistry or dental hygiene in this State or
14 accept compensation for the practice of dentistry or dental hygiene
15 except such compensation as may be paid to the person by the
16 Nevada System of Higher Education or an accredited program of
17 dentistry or dental hygiene for services provided as a dental intern,
18 dental resident or instructor of dentistry or dental hygiene pursuant
19 to paragraph (c) of subsection 1.

20 4. The Board may issue a permit authorizing a person who
21 holds a limited license to engage in the practice of dentistry or
22 dental hygiene in this State and to accept compensation for such
23 practice as may be paid to the person by entities other than the
24 Nevada System of Higher Education or an accredited program of
25 dentistry or dental hygiene with whom the person is under contract
26 pursuant to paragraph (c) of subsection 1. The Board shall, by
27 regulation, prescribe the standards, conditions and other
28 requirements for the issuance of a permit.

29 5. A limited license expires 1 year after its date of issuance and
30 may be renewed on or before the date of its expiration, unless the
31 holder no longer satisfies the requirements for the limited license.
32 The holder of a limited license may, upon compliance with the
33 applicable requirements set forth in NRS 631.330 and the
34 completion of a review conducted at the discretion of the Board, be
35 granted a renewal certificate that authorizes the continuation of
36 practice pursuant to the limited license for 1 year.

37 6. A permit issued pursuant to subsection 4 expires on the date
38 that the holder's limited license expires and may be renewed when
39 the limited license is renewed, unless the holder no longer satisfies
40 the requirements for the permit.

41 7. Within 7 days after the termination of a contract required by
42 paragraph (c) of subsection 1, the holder of a limited license shall
43 notify the Board of the termination, in writing, and surrender the
44 limited license and a permit issued pursuant to this section, if any, to
45 the Board.



1 8. The Board may revoke a limited license and a permit issued
2 pursuant to this section, if any, at any time ~~upon submission of~~
3 ~~substantial evidence to~~ if the Board *finds, by a preponderance of*
4 *the evidence*, that the holder of the license violated any provision of
5 this chapter or the regulations of the Board.

6 **Sec. 19.** NRS 631.272 is hereby amended to read as follows:

7 631.272 1. Except as otherwise provided in this section, the
8 Board shall, without a clinical examination required by NRS
9 631.240, issue a temporary license to practice dentistry to a person
10 who:

11 (a) Has a license to practice dentistry issued pursuant to the laws
12 of another state or territory of the United States, or the District of
13 Columbia;

14 (b) Has practiced dentistry pursuant to the laws of another state
15 or territory of the United States, or the District of Columbia, for a
16 minimum of 5 years;

17 (c) Has not had a license to practice dentistry revoked or
18 suspended in this State, another state or territory of the United
19 States, or the District of Columbia;

20 (d) Has not been refused a license to practice dentistry in this
21 State, another state or territory of the United States, or the District of
22 Columbia;

23 (e) Is not involved in or does not have pending a disciplinary
24 action concerning a license to practice dentistry in this State, another
25 state or territory of the United States, or the District of Columbia;

26 (f) Pays the application, examination and renewal fees in the
27 same manner as a person licensed pursuant to NRS 631.240;

28 (g) Submits all information required to complete an application
29 for a license; and

30 (h) Satisfies the requirements of NRS 631.230.

31 2. A person to whom a temporary license is issued pursuant to
32 subsection 1 may:

33 (a) Practice dentistry for the duration of the temporary license;
34 and

35 (b) Apply for a permanent license to practice dentistry without a
36 clinical examination required by NRS 631.240 if the person has held
37 a temporary license to practice dentistry pursuant to subsection 1 for
38 a minimum of 2 years.

39 3. The Board shall examine each applicant in writing on the
40 contents and interpretation of this chapter and the regulations of the
41 Board.

42 4. The Board shall not, on or after July 1, 2006, issue any
43 additional temporary licenses to practice dentistry pursuant to this
44 section.



1 5. Any person who, on July 1, 2006, holds a temporary license
2 to practice dentistry issued pursuant to this section may, subject to
3 the regulatory and disciplinary authority of the Board, practice
4 dentistry under the temporary license until December 31, 2008, or
5 until the person is qualified to apply for and is issued or denied a
6 permanent license to practice dentistry in accordance with this
7 section, whichever period is shorter.

8 6. The Board may revoke a temporary license at any time
9 ~~upon submission of substantial evidence to~~ if the Board *finds, by a*
10 *preponderance of the evidence*, that the holder of the license
11 violated any provision of this chapter or the regulations of the
12 Board.

13 **Sec. 20.** NRS 631.273 is hereby amended to read as follows:

14 631.273 1. Except as otherwise provided in this section, the
15 Board shall, without a clinical examination required by NRS
16 631.300, issue a temporary license to practice dental hygiene to a
17 person who:

18 (a) Has a license to practice dental hygiene issued pursuant to
19 the laws of another state or territory of the United States, or the
20 District of Columbia;

21 (b) Satisfies the requirements of NRS 631.290;

22 (c) Has practiced dental hygiene pursuant to the laws of another
23 state or territory of the United States, or the District of Columbia,
24 for at least 5 years immediately preceding the date that the person
25 applies for a temporary license;

26 (d) Has not had a license to practice dental hygiene revoked or
27 suspended in this State, another state or territory of the United
28 States, or the District of Columbia;

29 (e) Has not been denied a license to practice dental hygiene in
30 this State, another state or territory of the United States, or the
31 District of Columbia;

32 (f) Is not involved in or does not have pending a disciplinary
33 action concerning a license to practice dental hygiene in this State,
34 another state or territory of the United States, or the District of
35 Columbia;

36 (g) Pays the application, examination and renewal fees in the
37 same manner as a person licensed pursuant to NRS 631.300; and

38 (h) Submits all information required to complete an application
39 for a license.

40 2. A person to whom a temporary license is issued pursuant to
41 this section may:

42 (a) Practice dental hygiene for the duration of the temporary
43 license; and

44 (b) Apply for a permanent license to practice dental hygiene
45 without a clinical examination required by NRS 631.300 if the



1 person has held a temporary license to practice dental hygiene
2 issued pursuant to this section for at least 2 years.

3 3. The Board shall examine each applicant in writing
4 concerning the contents and interpretation of this chapter and the
5 regulations of the Board.

6 4. The Board shall not, on or after July 1, 2006, issue any
7 additional temporary licenses to practice dental hygiene pursuant to
8 this section.

9 5. Any person who, on July 1, 2006, holds a temporary license
10 to practice dental hygiene issued pursuant to this section
11 may, subject to the regulatory and disciplinary authority of the
12 Board, practice dental hygiene under the temporary license until
13 December 31, 2008, or until the person is qualified to apply for and
14 is issued or denied a permanent license to practice dental hygiene in
15 accordance with this section, whichever period is shorter.

16 6. The Board may revoke a temporary license at any time
17 ~~[upon submission of substantial evidence to]~~ if the Board *finds, by a*
18 *preponderance of the evidence*, that the holder of the license
19 violated any provision of this chapter or the regulations of the
20 Board.

21 **Sec. 21.** NRS 631.274 is hereby amended to read as follows:

22 631.274 1. The Board shall, without a clinical examination
23 required by NRS 631.240 or 631.300, issue a restricted geographical
24 license to practice dentistry or dental hygiene to a person if the
25 person meets the requirements of subsection 2 and:

26 (a) A board of county commissioners submits a request that the
27 Board of Dental Examiners of Nevada waive the requirements of
28 NRS 631.240 or 631.300 for any applicant intending to practice
29 dentistry or dental hygiene in a rural area of a county in which
30 dental or dental hygiene needs are underserved as that term is
31 defined by the officer of rural health of the University of Nevada
32 School of Medicine;

33 (b) Two or more boards of county commissioners submit a joint
34 request that the Board of Dental Examiners of Nevada waive the
35 requirements of NRS 631.240 or 631.300 for any applicant
36 intending to practice dentistry or dental hygiene in one or more rural
37 areas within those counties in which dental or dental hygiene needs
38 are underserved as that term is defined by the officer of rural health
39 of the University of Nevada School of Medicine; or

40 (c) The director of a federally qualified health center or a
41 nonprofit clinic submits a request that the Board waive the
42 requirements of NRS 631.240 or 631.300 for any applicant who has
43 entered into a contract with a federally qualified health center or
44 nonprofit clinic which treats underserved populations in Washoe
45 County or Clark County.



- 1 2. A person may apply for a restricted geographical license if
2 the person:
- 3 (a) Has a license to practice dentistry or dental hygiene issued
4 pursuant to the laws of another state or territory of the United States,
5 or the District of Columbia;
- 6 (b) Is otherwise qualified for a license to practice dentistry or
7 dental hygiene in this State;
- 8 (c) Pays the application, examination and renewal fees in the
9 same manner as a person licensed pursuant to NRS 631.240 or
10 631.300;
- 11 (d) Submits all information required to complete an application
12 for a license; and
- 13 (e) Satisfies the requirements of NRS 631.230 or 631.290, as
14 appropriate.
- 15 3. The Board shall not issue a restricted geographical license to
16 a person:
- 17 (a) Whose license to practice dentistry or dental hygiene has
18 been revoked or suspended;
- 19 (b) Who has been refused a license to practice dentistry or dental
20 hygiene; or
- 21 (c) Who is involved in or has pending a disciplinary action
22 concerning a license to practice dentistry or dental hygiene,
23 ➔ in this State, another state or territory of the United States, or the
24 District of Columbia.
- 25 4. The Board shall examine each applicant in writing on the
26 contents and interpretation of this chapter and the regulations of the
27 Board.
- 28 5. A person to whom a restricted geographical license is issued
29 pursuant to this section:
- 30 (a) May practice dentistry or dental hygiene only in the county
31 or counties which requested the restricted geographical licensure
32 pursuant to paragraph (a) or (b) of subsection 1.
- 33 (b) Shall not, for the duration of the restricted geographical
34 license, engage in the private practice of dentistry or dental hygiene
35 in this State or accept compensation for the practice of dentistry or
36 dental hygiene except such compensation as may be paid to the
37 person by a federally qualified health center or nonprofit clinic
38 pursuant to paragraph (c) of subsection 1.
- 39 6. Within 7 days after the termination of a contract pursuant to
40 paragraph (c) of subsection 1, the holder of a restricted geographical
41 license shall notify the Board of the termination, in writing, and
42 surrender the restricted geographical license.
- 43 7. A person to whom a restricted geographical license was
44 issued pursuant to this section may petition the Board for



1 an unrestricted license without a clinical examination required by
2 NRS 631.240 or 631.300 if the person:

3 (a) Has not had a license to practice dentistry or dental hygiene
4 revoked or suspended in this State, another state or territory of the
5 United States, or the District of Columbia;

6 (b) Has not been refused a license to practice dentistry or dental
7 hygiene in this State, another state or territory of the United States,
8 or the District of Columbia;

9 (c) Is not involved in or does not have pending a disciplinary
10 action concerning a license to practice dentistry or dental hygiene in
11 this State, another state or territory of the United States, or the
12 District of Columbia; and

13 (d) Has:

14 (1) Actively practiced dentistry or dental hygiene for 3 years
15 at a minimum of 30 hours per week in the county or counties which
16 requested the restricted geographical licensure pursuant to paragraph
17 (a) or (b) of subsection 1; or

18 (2) Been under contract with a federally qualified health
19 center or nonprofit clinic for a minimum of 3 years.

20 8. The Board may revoke a restricted geographical license at
21 any time ~~[upon submission of substantial evidence to]~~ *if* the Board
22 *finds, by a preponderance of the evidence,* that the holder of the
23 license violated any provision of this chapter or the regulations of
24 the Board.

25 **Sec. 22.** NRS 631.275 is hereby amended to read as follows:

26 631.275 1. Except as otherwise provided in subsection 2, the
27 Board shall, without examination, issue a restricted license to
28 practice dentistry to a person who:

29 (a) Has a valid license to practice dentistry issued pursuant to
30 the laws of another state or the District of Columbia;

31 (b) Has received a degree from a dental school or college
32 accredited by the Commission on Dental Accreditation of the
33 American Dental Association or its successor organization;

34 (c) Has entered into a contract with a facility approved by the
35 Division of Public and Behavioral Health of the Department of
36 Health and Human Services to provide publicly funded dental
37 services exclusively to persons of low income for the duration of the
38 restricted license; and

39 (d) Satisfies the requirements of NRS 631.230.

40 2. The Board shall not issue a restricted license to a person:

41 (a) Who has failed to pass the examination of the Board;

42 (b) Who has been refused a license in this State, another state or
43 territory of the United States, or the District of Columbia; or



1 (c) Whose license to practice dentistry has been revoked in this
2 State, another state or territory of the United States, or the District of
3 Columbia.

4 3. A person to whom a restricted license is issued pursuant to
5 subsection 1:

6 (a) May perform dental services only:

7 (1) Under the general supervision of the State Dental Health
8 Officer or the supervision of a dentist who is licensed to practice
9 dentistry in this State and appointed by the Division of Public and
10 Behavioral Health of the Department of Health and Human Services
11 to supervise dental care that is provided in a facility which has
12 entered into a contract with the person to whom a restricted license
13 is issued and which is approved by the Division; and

14 (2) In accordance with the contract required pursuant to
15 paragraph (c) of that subsection.

16 (b) Shall not, for the duration of the restricted license, engage in
17 the private practice of dentistry, which includes, without limitation,
18 providing dental services to a person who pays for the services.

19 4. A restricted license expires 1 year after its date of issuance
20 and may be renewed on or before the date of its expiration, unless
21 the holder no longer satisfies the requirements for the restricted
22 license. The holder of a restricted license may, upon compliance
23 with the applicable requirements set forth in NRS 631.330 and the
24 completion of a review conducted at the discretion of the Board, be
25 granted a renewal certificate that authorizes the continuation of
26 practice pursuant to the restricted license for 1 year.

27 5. A person who receives a restricted license must pass
28 the examination of the Board within 3 years after receiving the
29 restricted license. If the person fails to pass that examination, the
30 Board shall revoke the restricted license.

31 6. The Board may revoke a restricted license at any time ~~upon~~
32 ~~submission of substantial evidence to~~ if the Board *finds, by a*
33 *preponderance of the evidence*, that the holder of the license
34 violated any provision of this chapter or the regulations of the
35 Board.

36 **Sec. 23.** NRS 631.350 is hereby amended to read as follows:

37 631.350 1. Except as otherwise provided in NRS 631.271,
38 631.2715 and 631.347, the Board may:

39 (a) Refuse to issue a license to any person;

40 (b) Revoke or suspend the license or renewal certificate issued
41 by it to any person;

42 (c) Fine a person it has licensed;

43 (d) Place a person on probation for a specified period on any
44 conditions the Board may order;

45 (e) Issue a public reprimand to a person;



- 1 (f) Limit a person's practice to certain branches of dentistry;
- 2 (g) Require a person to participate in a program to correct
- 3 alcohol or drug abuse or any other impairment;
- 4 (h) Require that a person's practice be supervised;
- 5 (i) Require a person to perform community service without
- 6 compensation;
- 7 (j) Require a person to take a physical or mental examination or
- 8 an examination of his or her competence;
- 9 (k) Require a person to fulfill certain training or educational
- 10 requirements;
- 11 (l) Require a person to reimburse a patient; or
- 12 (m) Any combination thereof;

13 ~~Upon submission of substantial evidence to~~ if the Board *finds,*
14 *by a preponderance of the evidence,* that the person has engaged in
15 any of the activities listed in subsection 2.

16 2. The following activities may be punished as provided in
17 subsection 1:

- 18 (a) Engaging in the illegal practice of dentistry or dental
- 19 hygiene;
- 20 (b) Engaging in unprofessional conduct; or
- 21 (c) Violating any regulations adopted by the Board or the
- 22 provisions of this chapter.

23 3. The Board may delegate to a hearing officer or panel its
24 authority to take any disciplinary action pursuant to this chapter,
25 impose and collect fines therefor and deposit the money therefrom
26 in banks, credit unions or savings and loan associations in this State.

27 4. If a hearing officer or panel is not authorized to take
28 disciplinary action pursuant to subsection 3 and the Board deposits
29 the money collected from the imposition of fines with the State
30 Treasurer for credit to the State General Fund, it may present a
31 claim to the State Board of Examiners for recommendation to the
32 Interim Finance Committee if money is needed to pay attorney's
33 fees or the costs of an investigation, or both.

34 5. The Board shall not administer a private reprimand.

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

37 **Sec. 24.** NRS 637.150 is hereby amended to read as follows:

38 637.150 1. ~~Upon proof~~ *If the Board finds,* by ~~substantial~~
39 *a preponderance of the evidence* , that an applicant or holder of a
40 license:

- 41 (a) Has been adjudicated insane;
- 42 (b) Habitually uses any controlled substance or intoxicant;
- 43 (c) Has been convicted of a crime involving moral turpitude;



1 (d) Has been convicted of violating any of the provisions of
2 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
3 inclusive;

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

6 (f) Has presented to the Board any diploma, license or certificate
7 that has been signed or issued unlawfully or under fraudulent
8 representations, or obtains or has obtained a license to practice in
9 this State through fraud of any kind;

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

12 (h) Has, without proper verification, dispensed a lens, frame,
13 specially fabricated optical device or other ophthalmic device that
14 does not satisfy the minimum standards established by the Board
15 pursuant to NRS 637.073;

16 (i) Has violated any regulation of the Board;

17 (j) Has violated any provision of this chapter;

18 (k) Is incompetent;

19 (l) Is guilty of unethical or unprofessional conduct as
20 determined by the Board;

21 (m) Is guilty of repeated malpractice, which may be evidenced
22 by claims of malpractice settled against a practitioner;

23 (n) Is guilty of a fraudulent or deceptive practice as determined
24 by the Board; or

25 (o) Has operated a medical facility, as defined in NRS 449.0151,
26 at any time during which:

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

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

30 the Board may, in the case of an applicant, refuse to grant the
31 applicant a license, or may, in the case of a holder of a license, place
32 the holder on probation, reprimand the holder publicly, require the
33 holder to pay an administrative fine of not more than \$10,000,
34 suspend or revoke the holder's license, or take any combination of
35 these disciplinary actions.

36 2. The Board shall not privately reprimand a holder of a
37 license.

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

40 4. The provisions of paragraph (o) of subsection 1 apply to an
41 owner or other principal responsible for the operation of the medical
42 facility.

43 5. *As used in this section, "preponderance of the evidence"*
44 *has the meaning ascribed to it in section 2 of this act.*



1 **Sec. 25.** NRS 638.145 is hereby amended to read as follows:

2 638.145 **1.** The Board shall not refuse to issue a license to an
3 applicant or take any disciplinary action against a licensee unless the
4 Board finds, by ~~[substantial]~~ ***a preponderance of the*** evidence, that
5 the applicant or licensee has engaged in one or more of the practices
6 prohibited by the provisions of this chapter.

7 **2.** *As used in this section, "preponderance of the evidence"
8 has the meaning ascribed to it in section 2 of this act.*

9 **Sec. 26.** NRS 641.230 is hereby amended to read as follows:

10 641.230 **1.** The Board may suspend or revoke a person's
11 license as a psychologist, behavior analyst or assistant behavior
12 analyst or certificate as an autism behavior interventionist, place the
13 person on probation, require remediation for the person or take any
14 other action specified by regulation if the Board finds by
15 ~~[substantial]~~ ***a preponderance of the*** evidence that the person has:

16 ~~[1-]~~ **(a)** Been convicted of a felony relating to the practice of
17 psychology or the practice of applied behavior analysis.

18 ~~[2-]~~ **(b)** Been convicted of any crime or offense that reflects the
19 inability of the person to practice psychology or applied behavior
20 analysis with due regard for the health and safety of others.

21 ~~[3-]~~ **(c)** Been convicted of violating any of the provisions of
22 NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440,
23 inclusive.

24 ~~[4-]~~ **(d)** Engaged in gross malpractice or repeated malpractice or
25 gross negligence in the practice of psychology or the practice of
26 applied behavior analysis.

27 ~~[5-]~~ **(e)** Aided or abetted the practice of psychology by a person
28 not licensed by the Board.

29 ~~[6-]~~ **(f)** Made any fraudulent or untrue statement to the Board.

30 ~~[7-]~~ **(g)** Violated a regulation adopted by the Board.

31 ~~[8-]~~ **(h)** Had a license to practice psychology or a license or
32 certificate to practice applied behavior analysis suspended or
33 revoked or has had any other disciplinary action taken against the
34 person by another state or territory of the United States, the District
35 of Columbia or a foreign country, if at least one of the grounds for
36 discipline is the same or substantially equivalent to any ground
37 contained in this chapter.

38 ~~[9-]~~ **(i)** Failed to report to the Board within 30 days the
39 revocation, suspension or surrender of, or any other disciplinary
40 action taken against, a license or certificate to practice psychology
41 or applied behavior analysis issued to the person by another state or
42 territory of the United States, the District of Columbia or a foreign
43 country.



1 ~~[H0.]~~ (j) Violated or attempted to violate, directly or indirectly,
2 or assisted in or abetted the violation of or conspired to violate a
3 provision of this chapter.

4 ~~[H1.]~~ (k) Performed or attempted to perform any professional
5 service while impaired by alcohol, drugs or by a mental or physical
6 illness, disorder or disease.

7 ~~[H2.]~~ (l) Engaged in sexual activity with a patient or client.

8 ~~[H3.]~~ (m) Been convicted of abuse or fraud in connection with
9 any state or federal program which provides medical assistance.

10 ~~[H4.]~~ (n) Been convicted of submitting a false claim for
11 payment to the insurer of a patient or client.

12 ~~[H5.]~~ (o) Operated a medical facility, as defined in NRS
13 449.0151, at any time during which:

14 ~~[(a)]~~ (1) The license of the facility was suspended or revoked; or

15 ~~[(b)]~~ (2) An act or omission occurred which resulted in the
16 suspension or revocation of the license pursuant to NRS 449.160.

17 ↪ This ~~[subsection]~~ *paragraph* applies to an owner or other
18 principal responsible for the operation of the facility.

19 **2. As used in this section, “preponderance of the evidence”**
20 **has the meaning ascribed to it in section 2 of this act.**

21 **Sec. 27.** NRS 683C.130 is hereby amended to read as follows:

22 683C.130 1. Upon suspension, limitation or revocation of the
23 license of an insurance consultant, the Commissioner shall
24 immediately notify the licensee in person or by mail addressed to
25 the licensee at his or her most recent address of record with the
26 Division. Notice by mail is effective when mailed.

27 2. The Commissioner shall not again issue a license under this
28 chapter to any natural person whose license has been revoked until
29 at least 1 year after the revocation has become final, and thereafter
30 not until the person again qualifies for it under this chapter. A
31 person whose license has been revoked twice is not eligible for any
32 license under this title.

33 3. If the license of a business organization is suspended, limited
34 or revoked, no member, officer or director of the organization may be
35 licensed, or designated in a license to exercise its powers, during the
36 period of suspension or revocation, unless the Commissioner
37 determines ~~[upon substantial]~~, **by a preponderance of the evidence,**
38 that the member, officer or director was not personally at fault and did
39 not knowingly aid, abet, assist or acquiesce in the matter for which
40 the license was suspended or revoked.

41 **4. As used in this section, “preponderance of the evidence”**
42 **has the meaning ascribed to it in section 2 of this act.**

43 **Sec. 28.** This act becomes effective on July 1, 2015.



