



IN THE SUPREME COURT OF THE STATE OF NEVADA

TAMISHA DAVIS, INDIVIDUALLY;
AND MV TRANSPORTATION, INC., A
FOREIGN CORPORATION,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE VERONICA
BARISICH, DISTRICT JUDGE,
Respondents,
and
VASKEN OHANIAN, INDIVIDUALLY,
Real Party in Interest.

No. 90366

Original petition for a writ of mandamus challenging a district court order requiring disclosure of raw psychological test data in a civil action.

Petition denied.

Messner Reeves LLP and M. Caleb Meyer and Jason G. Martinez, Las Vegas,
for Petitioners.

Panish Shea Boyle Ravipudi LLP and Jesse Creed, Hunter Norton, and Bernadette M. Bolan, Los Angeles, California; Lagomarsino Law and Andre M. Lagomarsino and Cory M. Ford, Henderson,
for Real Party in Interest.

Wilson Elser Moskowitz Edelman & Dicker LLP and Michael P. Lowry, Las Vegas,
for Amicus Curiae Thomas Kinsora, Ph.D.

BEFORE THE SUPREME COURT, EN BANC.¹

OPINION

By the Court, LEE, J.:

In this writ proceeding, we are asked to determine whether NAC 641.234(3), a Nevada Administrative Code provision promulgated by the Nevada Board of Psychological Examiners, supersedes a district court's discovery order requiring the disclosure of raw testing data relied upon by an expert witness while conducting a medical examination. That regulation purportedly prohibits the release of psychological testing questions and data in judicial proceedings absent a federal or state law specifically requiring disclosure. During discovery in the proceedings below, the district court determined NAC 641.234(3) did not prohibit the disclosure of raw psychological test data and ordered petitioners to produce the data to counsel. Petitioners refused. They now challenge the district court's discovery order by way of the instant petition for a writ of mandamus.

¹The Honorable Lidia S. Stiglich, Justice, did not participate in the decision of this matter.

Exercising our discretionary power to issue advisory mandamus, we hold that NRS 641.100(2) only authorizes the Board to regulate the practice of psychology, not civil discovery in district courts. We recently held that NRCP 16.1 and NRCP 35 permit disclosure of raw testing data when ordered by a court and subject to a protective order. *Powers v. Eighth Jud. Dist. Ct.*, 142 Nev., Adv. Op. 35, 589 P.3d 638, 648 (2026). Similarly, here, while an expert psychologist may be subject to the requirements of NAC 641.234(3), they must nevertheless comply with court-ordered disclosures of psychological test data.² Accordingly, because the district court did not manifestly abuse its discretion in ordering petitioners to disclose raw psychological test data to counsel, we deny the petition.

FACTS AND PROCEDURAL HISTORY

Vasken Ohanian was struck by a bus driven by Tamisha Davis, who was employed as a bus driver for MV Transportation, Inc. As a result, Ohanian sued Davis and MV, claiming that he suffered physical injuries and psychological and cognitive harm from the accident. Davis hired Dr. Thomas Kinsora, Ph.D., as an expert witness to conduct an independent medical examination of Ohanian under NRCP 35. Dr. Kinsora performed a neuropsychological evaluation of Ohanian and prepared a report that

²Some of the Board's regulatory changes are not yet codified and published within the Nevada Administrative Code. State of Nevada Board of Psychological Examiners, NAC Ch. 641 Changes, <https://www.psyexam.nv.gov/rules-regs/nac-641-changes> (last visited April 23, 2026). For the purposes of this opinion, we examine here the language of NAC 641.234(3) as adopted beginning with Legislative Counsel Bureau File No. R005-24 and currently available on Westlaw, which cites to the Nevada Register of Administrative Regulations, Volume 333. NAC 641.234 (Westlaw).

indicated Ohanian's profile was inconsistent with that of true traumatic injury and that Ohanian engaged in an exaggerated response style. The report also criticized the psychological evaluation report by Ohanian's retained expert, Dr. Michael A. Elliott, Ph.D. Dr. Kinsora asserted that Dr. Elliott failed to follow professional guidelines and did not properly account for the effects of Ohanian's multilingualism on the test results, which resulted in Dr. Elliott's report being unhelpful to a trier of fact.³

After receiving Dr. Kinsora's report, Ohanian filed a motion in limine to exclude Dr. Kinsora's opinions, arguing that Dr. Kinsora failed to provide the raw data underlying his report as required by NRCP 16.1. He further requested the district court to order the disclosure of Dr. Kinsora's raw test data—including the examination questions Dr. Kinsora asked—to effectively question Dr. Kinsora at trial about the assertions in his report. Ohanian believed that Dr. Kinsora planned to testify at trial that his report was more accurate than Dr. Elliott's because his test questions were more appropriate. Without access to the questions, Ohanian claimed his ability to prepare an effective cross-examination would be prejudiced. The district court granted the motion in part, ordering Dr. Kinsora to provide all the raw data that he considered or relied on to Dr. Elliott and Ohanian's counsel under a protective order, but deferred ruling on potential exclusion of Dr. Kinsora's testimony pending compliance with the order.

³During his childhood, Ohanian spoke Arabic, Armenian, and Turkish at home. He moved to the United States at age 17, taught himself English, and has been primarily speaking English for decades.

Davis and MV provided the requested data to Dr. Elliott but stated that they would not disclose the data to Ohanian's counsel absent a specific court order. The district court then issued another written order, finding that Davis and MV had only partially complied with its orders and again ordering disclosure of the test questions to Ohanian's counsel. Davis and MV moved for reconsideration, which the court denied. The court again, for the third time, ordered the disclosure of the test questions to Ohanian's counsel. Davis and MV failed to follow the court's orders by disclosing Ohanian's answers to the psychological exam, but not the exam questions, to Ohanian's counsel.

After Ohanian called this continued noncompliance to the court's attention, Davis and MV moved for reconsideration a second time, arguing that NAC 641.234(3), a regulation recently enacted by the Board, constituted substantially different evidence for which the court could set aside its previous orders. The district court found that NAC 641.234(3), which purports to prohibit the release of psychological testing questions and data in a judicial proceeding absent a federal or state law specifically requiring such disclosure, did not prohibit disclosure. The court reasoned that NRCP 16.1 and NRS 50.305 are specific state laws requiring disclosure of the test questions to Ohanian's counsel. Davis and MV now petition for a writ of mandamus in this court challenging that decision.

DISCUSSION

Davis and MV argue that the district court erred in requiring the disclosure of the examination questions to Ohanian's counsel because NRCP 16.1 and NRS 50.305 are not "specific state laws" under NAC 641.234(3) that justify disclosure. They assert that Rule 16.1 is merely a

general discovery rule applicable to all testifying experts, while Rule 35, which governs medical examinations, prescribes the disclosure requirements applicable to Dr. Kinsora, as a Rule 35 examiner, and does not require disclosure of examination questions. Davis and MV also argue that NRS 50.305 does not require disclosure because it is an evidentiary rule at trial that applies only to expert testimony and questioning on cross-examination.

Ohanian argues that NRCP 16.1, NRCP 35, and NRS 50.305 are all specific state laws, therefore requiring disclosure of the examination questions. Alternatively, Ohanian argues that NAC 641.234(3) is unconstitutional, as it (1) exceeds the Board's statutory authority, (2) violates the separation of powers, or (3) creates an unlawful evidentiary privilege.

We elect to entertain the petition

“The decision to entertain a petition for a writ of mandamus is within our sole discretion,” *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 106, 506 P.3d 334, 337 (2022), and “[p]etitioners carry the burden of demonstrating that extraordinary relief is warranted,” *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). This court may grant advisory mandamus where a petitioner presents “legal issues of statewide importance requiring clarification” and the court’s decision will promote judicial economy and administration. *Walker v. Second Jud. Dist. Ct.*, 136 Nev. 678, 683, 476 P.3d 1194, 1198 (2020) (quoting *MDC Rests., LLC v. Eighth Jud. Dist. Ct.*, 134 Nev. 315, 319, 419 P.3d 148, 152 (2018)). Such review may be warranted where a case presents “a serious issue of substantial public policy or involve[s] important precedential questions of

statewide interest.” *Id.* at 684, 476 P.3d at 1199. This petition raises the issue of whether a state regulation such as NAC 641.234(3) supersedes a district court’s ability to control civil discovery, a question of statewide importance, the disposition of which here will promote judicial economy. We recently addressed a similar question in relation to state statutory provisions in *Powers*, 142 Nev., Adv. Op. 35, 589 P.3d 638. Accordingly, we exercise our discretion to entertain this writ petition to explain the application of *Powers* in the context of a state regulation purportedly restricting the district court’s broad discretion over discovery.

In considering this petition, discovery rulings are reviewed for a manifest abuse of discretion. *Cotter v. Eighth Jud. Dist. Ct.*, 134 Nev. 247, 249, 416 P.3d 228, 231-32 (2018); *Club Vista Fin. Servs. v. Eighth Jud. Dist. Ct.*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012). “A manifest abuse of discretion is [a] clearly erroneous interpretation of the law or a clearly erroneous application of a law or rule.” *Cotter*, 134 Nev. at 249, 416 P.3d at 232 (internal quotation marks omitted). “In addition, when considering a writ petition, this court reviews legal questions de novo and ‘gives deference to the district court’s findings of fact.’” *Id.* at 250, 416 P.3d at 232 (quoting *Williams v. Eighth Jud. Dist. Ct.*, 127 Nev. 518, 525, 262 P.3d 360, 365 (2011)).

NAC 641.234(3) does not prohibit a district court from requiring disclosure of psychological examination questions

Davis and MV assert that the district court erred by ordering the disclosure of Dr. Kinsora’s examination questions to Ohanian’s counsel under NRCP 16.1 and NRS 50.305 because doing so violated NAC 641.234(3). We disagree. Without deciding the constitutionality of NAC 641.234(3), we conclude that the district court has discretion to determine

the contours of discovery disclosures regardless of NAC 641.234(3) because the regulation governs the conduct of licensed psychologists, not the discovery process of the district courts.

NRS 641.100 delegates authority to the Board to adopt certain rules and regulations. Specifically, NRS 641.100(2) allows the Board to promulgate regulations governing “the practice of psychology.” The Board relied on this authority when it adopted NAC 641.234(3), which states:

Except as otherwise provided in subsection 4 or where *otherwise required by specific federal or state law*, a person who is licensed or registered by the Board shall not disclose psychological test material or psychological test data:

(a) To any person, including, without limitation, the person who is the subject of the psychological test or assessment procedure; or

(b) During *any judicial proceeding*, administrative proceeding or legislative proceeding.

(Emphases added.)

By its own terms, NRS 641.100(2) permits the Board to regulate only “the practice of psychology,” including, by extension, the conduct of Board-certified psychologists. *See Bisch v. Las Vegas Metro. Police Dep’t*, 129 Nev. 328, 336, 302 P.3d 1108, 1114 (2013) (recognizing that statutes are understood according to their plain meaning when they are unambiguous). The statute does not permit the Board to regulate civil discovery, which is governed by the Nevada Rules of Civil Procedure. *See* NRCP 1. Thus, the regulation cannot direct the district court’s discovery decisions.

We have repeatedly held that district courts are given wide discretion to control discovery matters, including under NRCP 16.1. *See*,

e.g., *State v. Second Jud. Dist. Ct. (Ojeda)*, 134 Nev. 770, 772, 431 P.3d 47, 50 (2018); *Arnold v. Kip*, 123 Nev. 410, 414, 168 P.3d 1050, 1052 (2007), *as amended* (Nov. 21, 2007). District courts may exercise this discretion to order disclosures and impose sanctions for the violations of those orders. NRCPP 16.1(e)(3). Thus, a district court has the discretion to order the disclosure of an expert psychologist’s examination questions during discovery, and an expert psychologist who fails to comply with a court-ordered disclosure under NRCPP 16.1—notwithstanding NAC 641.234(3)—may be subject to sanctions under NRCPP 16.1(e)(3), up to and including exclusion of their testimony and documents at trial.

In *Powers v. Eighth Judicial District Court*, we held that NRS 629.620, which purported to place limits on court-ordered mental or physical examinations of a party during civil litigation, violated the separation-of-powers doctrine insofar as it conflicted with NRCPP 35. 142 Nev., Adv. Op. 35, 589 P.3d 638, 642 (2026). We further held that the district court has authority to order the disclosure of raw data from mental and physical examinations of a party for purposes of litigation. *Id.* at 648. As we reasoned, “[t]hough NRCPP 35 does not explicitly address the disclosure of raw testing data, ‘discovery matters are within the district court’s broad discretion.’” *Id.* at 647 (quoting *Club Vista Fin. Servs. v. Eighth Jud. Dist. Ct.*, 128 Nev. 224, 228, 276 P.3d 246, 249 (2012)). The same reasoning applies here.

Reviewing the record before us, the district court acted within its discretion in ordering Dr. Kinsora to disclose the psychological examination questions to Ohanian’s counsel. The district court engaged in a judicious balancing of the parties’ concerns—appropriately weighing

Ohanian’s interest in disclosure against the collective interest of Dr. Kinsora, Davis, and MV in protecting the integrity of their examination questions—when it ordered disclosure subject to a protective order. *See Diversified Cap. Corp. v. City of North Las Vegas*, 95 Nev. 15, 23, 590 P.2d 146, 151 (1979) (stating that trial courts are afforded reasonable discretion in controlling the conduct of discovery and that decisions will be reversed only where a clear abuse appears). Accordingly, we hold that the district court did not abuse its discretion.

In reaching this holding, we reject Davis and MV’s argument that Dr. Kinsora, as an NRCP 35 medical examiner, was not bound by the requirements of NRCP 16.1 that apply to testifying expert witnesses. We find no authority for the proposition that an independent medical examiner who is called as an expert and provides a medical examination cannot comply with the requirements of both NRCP 16.1 and NRCP 35, as the two are not mutually exclusive. We also reject Davis and MV’s suggestion, and NAC 641.234’s implicit assumption, that expert testimony or evidence regarding psychological testing materials should be treated differently than other expert testimony or materials.⁴

“NRCP 16.1 explicitly allows for the disclosure of data used to make an expert report. Thus, the disclosure of raw data, including examiner questions, is discoverable under NRCP 16.1, and nothing limits the ability of the district court to order such disclosure.” *Powers*, 142 Nev.,

⁴Because psychological test data is discoverable under NRCP 16.1 and NRCP 35, we need not reach the assertion that NRS 50.305 exclusively applies to expert testimony and questioning on cross-examination.

Adv. Op. 35, 589 P.3d at 647. The Board's administrative code provision does not supersede a court's ability to direct discovery.

CONCLUSION

We hold that NRS 641.100(2) permits the Board to regulate the practice of psychology but not civil discovery in courts. Moreover, we hold that the district court did not manifestly abuse its discretion when it ordered Davis to disclose the raw psychological test data, including exam questions, to Ohanian's counsel. Accordingly, we deny the petition.



Lee, J.

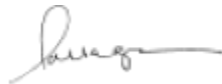
We concur:



Herndon, C.J.



Pickering, J.



Parraguirre, J.



Bell, J.



Cadish, J.