

Title 19  
procedure code

- West Virginia Board of Examiners for Registered Professional Nurses  
Series 5  
Procedure for Hearing

Section 1 General

1.1 Scope - These rules establish the procedures for contested case hearings before the board.

1.2 Authority - WV Code 30-7 & 29A-5

1.3 Filing Date - Dec 17, 1982

1.4 Effective Date - Dec 17, 1982

Section 2

HEARING PROCEDURE

- 2.1. Call the hearing to order.
- 2.2. Read the Notice of the Hearing to the Respondent.
- 2.3. Ask counsel for the State if the State is ready to proceed.
- 2.4. Ask counsel for the Respondent if he is ready to proceed.
- 2.5. Announce that it would help the Board, if counsel would make a short opening statement about what he expects to prove.
  - (a) State's attorney first.
  - (b) Defendant's attorney next.
- 2.6. Call the first witness for the State.
- 2.7. After each witness is called, allow the other attorney to cross-examine the witness.
  - (a) Then ask first attorney if he wants to ask more questions.
- 2.8. After State completes all its witnesses, ask the lawyer for the defendant if there are any motions he wishes to make.
  - (a) If so--listen to it and announce that it will be taken into consideration and that the Board will reserve its ruling on the motion until later.

2.9. Allow the defense to call its witnesses.

(a) After each witness testified, allow the other lawyer to cross-examine.

2.10. After defense finishes, ask State's attorney if he has any rebuttal evidence.

2.11. Then ask the attorneys if they have any closing statements they wish to make.

2.12. Then announce that the Board will consider the case and advise the parties of its ruling as quickly as possible.

Section 3

PURPOSE OF A HEARING

- 3.1. To allow the accused (the respondent) to hear the complaint.
- 3.2. To allow him to respond to the complaint.
  - \* (a) To admit or deny the facts stated in the complaint.
  - (b) To move to dismiss the complaint as being incorrect under the law.
- 3.3. To confront the individuals who have complained about him.
  - (a) To hear their testimony and cross-examine them.
  - (b) To see their documentary evidence and question its validity.\*
- 3.4. To be advised of the possible penalties which might be imposed upon him.
- 3.5. To present his defenses to the charges against him.
- 3.6. To present any ameliorating facts or circumstances.
- 3.7. To provide the basis for a review by the Courts if necessary.
- 3.8. To assure the accused that his rights will not be suddenly taken away without due process of law; and that he receives the equal protection of the law.

Section 4

HEARING PROCEDURE

- 4.1. Notice
  - (a) Thirty days written notice of hearing date.
  - (b) Must state the facts of the complaint.
  - (c) Must state the date, location and time of the proposed hearing.
  - (d) Must state possible or probable penalties.
  - (e) Must be served on the accused in the time and in the manner provided by law.
- 4.2. The hearing will then be held before the Administrative Board or Agency responsible for licensing the accused, or for regulating his conduct.
- 4.3. The entire hearing must be recorded.
  - (a) Official Court Reporter
  - (b) Mechanical Recording Procedure
- 4.4. The charges or complaints about the accused must be read to him so that he can respond to them, and he must be advised of the penalties which may be imposed upon him.
- 4.5. Usually opening statements are made by those making the complaints and by the accused or their attorneys.
- 4.6. Testimony and other evidence is then presented by the parties in support of their positions.
  - (a) Complaining party goes first.
- 4.7. Closing statements may be made by both sides.
- 4.8. Briefs or memoranda of the law may be filed.
- 4.9. A written decision must be prepared, setting forth findings of fact and conclusions.
  - (a) Appeal Time Limit Begins.
- 4.10. Appeal to Circuit Court.