

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Registration for Sanitarians TITLE NUMBER: 8220

RULE TYPE: Procedural legislative CITE AUTHORITY: § 30-1-8

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: _____

Disciplinary and Complaint Procedures for Sanitarians

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 31, 2000 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Ronald K. Forren

Office of Environmental Health Services

Bureau for Public Health

815 Quarrier St., Suite 418

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Norman L. Moore, R.S.
Authorized Signature

Norman L. Moore, Chairman - WV Board of Registration for Sanitarians

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

34.40

Brief Summary of the Rule

This rule establishes the disciplinary and complaint procedures for registered sanitarians and sanitarians in training for the West Virginia Board of Registration for Sanitarians.

Statement of Circumstances Which Require the Proposed Rule

This rule was mandated by the passage of §30-1-8.

This proposed rule will be distributed to each local health department with a letter delineating a public comment period. A press release will also be prepared to advise the public of the proposed rule and the comment period.

**TITLE 20
LEGISLATIVE RULE
BOARD OF REGISTRATION FOR SANITARIANS**

**SERIES 2
DISCIPLINARY AND COMPLAINT PROCEDURES FOR SANITARIANS**

For Public Comment

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TITLE 20
LEGISLATIVE RULE
BOARD OF REGISTRATION FOR SANITARIANS
SERIES 2
DISCIPLINARY AND COMPLAINT PROCEDURES FOR SANITARIANS

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SECRETARY OF STATE

§ 20-2-1. General.

1.1. Scope. -- This rule specifies a procedure for the investigation and resolution of complaints against sanitarians-in-training and registered sanitarians. This rule should be read in conjunction with the provisions of W. Va. Code §30-01-1 et seq.

1.2. Authority. -- W. Va. Code § 30-17-1 *et seq.* and § 30-1-1 *et seq.*

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Applicability. -- This rule applies to all Registered Sanitarians and Sanitarians-in-Training.

1.6. Enforcement. -- This rule is enforced by the West Virginia Board of Registration for Sanitarians.

§ 20-2-2. Definitions. -- The following words and phrases as used in this rule have the following meanings, unless the context otherwise requires:

2.1 Applicant. -- Any person making application for an original or renewal registration pursuant to West Virginia Code § 30-17-1 *et seq.*

2.2. Board. -- The West Virginia Board of Registration for Sanitarians.

2.3. Certificate of Registration. -- A document issued as evidence of registration and qualification to practice as a sanitarian or a sanitarian-in-training under §30-17-1 *et seq.*, and bearing the designation "registered sanitarian" or "sanitarian-in-training" and showing the name of the person, date of issue, serial number, seal and signatures of the members of the board authorized to grant such certificates.

2.4. Ethics investigator. -- A person registered as a Registered Sanitarian in this state, and who is hired by the Board for the purpose of reviewing complaints against Registered Sanitarians and Sanitarians-in-Training.

2.5. Registered Sanitarian. -- A sanitarian registered in accordance with the provisions of §30-17-1 *et seq.*

2.6. Sanitarian -- A public health professional uniquely qualified by education in the arts and sciences, specialized training, and credible field experience to assist in the enforcement of public health laws and environmental sanitation regulations, and to effectively plan, organize, manage, evaluate and execute one or more of the many diverse disciplines comprising the field of public health and environmental sanitation.

2.7. Sanitarian-in-Training. – A person who possesses the necessary educational qualifications as prescribed in §30-17-1 *et seq* for registration as a professional sanitarian, but who has not completed the experience requirements in the fields of environmental sanitation as required for registration.

§ 20-2-3. Causes for Denial, Probation, Limitation, Discipline, Suspension or Revocation of a Certificate of Registration.

The Board may deny an application for a certificate of registration, suspend a registration or revoke any registration issued by the Board, upon satisfactory proof that a registrant has been convicted of a felony or is, in his or her professional capacity, engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of West Virginia Code § 30-17-1 *et seq.* or the rules of the Board.

§ 29-2-4. Disposition of Complaints.

4.1. Any person, firm, corporation, member of the Board, or public officer may make a complaint to the Board which charges a sanitarian or sanitarian-in-training or applicant with a violation of West Virginia Code § 30-20-1 *et seq.* or of the rules of the Board. The Board may provide a form for that purpose, but a complaint may be filed in any written form. In addition to describing the alleged violation which prompted the complaint, the complaint should contain the following:

4.1.a. The name and address of the sanitarian or sanitarian in training against whom the complaint is lodged;

4.1.b. The date of complaint; and

4.1.c. The date or dates the incident occurred.

4.2. A complaint against a sanitarian or sanitarian-in-training shall allege that such person has been convicted of a felony or is, in his or her professional capacity, engaging in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of West Virginia Code § 30-17-1 *et seq.* or the rules of the Board.

4.3. Complainants are immune from liability for the allegations contained in their complaints filed with the Board unless the complaint is filed in bad faith or for a malicious purpose.

4.4. The Board shall maintain a complaint log which records the receipt of each complaint, its nature and its disposition.

4.5. The Board shall maintain a separate file on each complaint received, and each file shall have a number assigned to it.

4.6. Upon receipt of a complaint, the Board shall issue one of the following acknowledgments to the complainant:

4.6.a. That the matter will be reviewed by the Board;

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4.6.b. That the complaint is outside the jurisdiction of the Board, with suggestions as to how the complainant might best obtain a resolution of his or her problem; or,

4.6.c. That more information will be required in order to adequately review the individual complaint.

4.7. The Board shall send a copy of the complaint, including any supporting documentation, by certified mail to the registrant or applicant in question for his or her written comment, and he or she shall submit a written response to the Board within thirty (30) days of the date of such correspondence, or waive the right to do so.

4.8. Requests for comment on complaints sent to registrants or applicants shall be considered properly served when sent to their last known address. It is the responsibility of the registrants or applicants to keep the Board informed of his or her current address.

4.9. Upon receipt of a registrant's or applicant's comments in response to a complaint, the Board shall promptly send a copy of the same, including any supporting documentation, to the complainant.

4.10. After receipt and review of a complaint, unless the complaint is determined to fall within the provisions of sub-division 4.6.b of this rule, the Board shall cause to be conducted any reasonable inquiry or investigation it considers necessary to determine the truth and the validity of the allegations set forth in the complaint. The review of complaints and any view or investigation thereof may, at the discretion of the Board, be assigned to a committee of the Board.

4.11. At any point in its investigation of a complaint the Board may, at its discretion, assign the matter to an ethics investigator for review and investigation.

4.12. Upon receipt of a complaint the ethics investigator shall, within sixty (60) days, review and investigate the same and provide the Board with a report. The report shall contain a statement of the allegations, a statement of facts, and an analysis of the complaint including a description of the care provided, the records reviewed and a statement of the ethics investigator's findings and recommendations. The ethics investigator shall, upon request, be afforded an opportunity to have an investigation interview with the registrant or applicant in question or other involved parties, a report of which shall be placed in the investigation file.

4.13. To facilitate the disposition of a complaint, the Board or the committee may request any person to attend an informal conference, or to appear at a regular meeting of the Board, at any time prior to the Board entering any order with respect to the complaint. The Board or the committee shall give notice of the conference, which notice shall include a statement of issues to be informally discussed. Statements made at a conference may not be introduced at any subsequent hearing on the merits without the consent of all parties to the hearing. No prejudice shall attach for failure to attend a conference pursuant to a request.

4.14. The Board, its chairman, the investigating committee or chairperson may issue subpoenas and subpoenas duces tecum to complete the Board's investigation and to determine the truth or validity of complaints. The ethics investigator may request the Board or its chairman to issue a subpoena or subpoena duces tecum. Any such request shall be accompanied by a brief statement specifying the necessity for the same.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 64 CSR 2, Disciplinary and Complaint Procedures for Sanitarians

Type of Rule: Legislative Interpretive Procedural

Agency: Division of Health
Department of Health and Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$0	\$0	\$0
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					
Revenue					

2. Explanation of above estimates.

The rule should have no fiscal implications

3. Objectives of this rule:

To establish procedures for the investigations and resolution of complaints against persons who are registered and qualified to practice as a sanitarian or sanitarian-in-training in this state.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

None

C. Economic Impact on Citizens/Public at Large.

None

Date: _____

June 16, 2000

Signature of Agency Head or Authorized Representative:

Norman L. Moore, R.S.
Norman L. Moore, Chairman
West Virginia Board of Registration for Sanitarians



**WEST VIRGINIA
BOARD OF REGISTRATION
FOR SANITARIANS**

CAPITOL COMPLEX
BUILDING 3, ROOM 560
CHARLESTON, WEST VIRGINIA 25305

June 21, 2000

Judy Cooper, Director
Administrative Law Division
Secretary of State
1900 Kanawha Blvd., East
Charleston, West Virginia 15305

Dear Ms. Cooper:

Enclosed is a copy of a notice of comment period for a proposed procedural rule 20 CSR 2, "Disciplinary and Complaint Procedures for Sanitarians." This proposed rule was developed by the West Virginia Board of Registration for Sanitarians.

Thank you.

Sincerely,

Norman L. Moore, R.S.
Norman L. Moore
Chairman

cc: Legislature Rule-Making Review Committee