

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

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JUL 3 11 04 AM '00

Form #2

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Board of Chiropractic TITLE NUMBER: 4

RULE TYPE: Legislative CITE AUTHORITY: WV 30-16-1 et seq + 30-1-1 et seq

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 Chiropractors

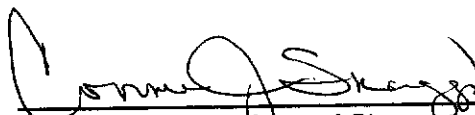
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 15, 2000 AT 5:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Board of Chiropractic

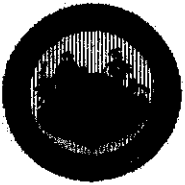
P. O. Box 153

St. Albans WV 25177

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

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



# STATE OF WEST VIRGINIA

## Board of Chiropractic

*P. O. Box 153 – St. Albans, WV 25177*  
*Phone: (304) 722-1424 - Fax: (304) 722-1425*  
*E-mail: [wvboc@citynet.net](mailto:wvboc@citynet.net)*  
*Website: <http://www.state.wv.us/wvboc>*

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### BRIEF SUMMARY PROPOSED LEGISLATIVE RULES TITLE 4, SERIES 2 DISCIPLINARY & COMPLAINT PROCEDURES FOR CHIROPRACTORS

This rule specifies a procedure for the investigation and resolution of complaints against chiropractors and those persons or corporations rendering chiropractic services.

A handwritten signature in black ink, appearing to read "Connie J. Skaggs", written over a horizontal line.

Connie J. Skaggs  
Executive Secretary  
WV Board of Chiropractic Examiners



# STATE OF WEST VIRGINIA

## Board of Chiropractic

*P. O. Box 153 – St. Albans, WV 25177*

*Phone: (304) 722-1424 - Fax: (304) 722-1425*

*E-mail: [wvboc@citynet.net](mailto:wvboc@citynet.net)*

*Website: <http://www.state.wv.us/wvboc>*

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### STATEMENT OF CIRCUMSTANCES PROPOSED LEGISLATIVE RULES TITLE 4, SERIES 2 DISCIPLINARY & COMPLAINT PROCEDURES FOR CHIROPRACTORS

The purpose of filing these legislative rules is to meet the requirement of H.B. 4062 passed in the most recent Legislative Session.

A handwritten signature in cursive script, appearing to read "Connie J. Skaggs".

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Connie J. Skaggs  
Executive Secretary  
WV Board of Chiropractic Examiners

□  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Disciplinary and Complaint Procedures for Chiropractors

Type of Rule:  Legislative     Interpretive     Procedural

Agency: \_\_\_\_\_

Address: \_\_\_\_\_ WV BOARD OF CHIROPRACTIC EXAMINERS  
P.O. BOX 153

ST. ALBANS, WV 25177

Connie J. Skaggs

722-1424

1. Effect of Proposed rule:

|                       | ANNUAL FISCAL YEAR |          |         |      |            |
|-----------------------|--------------------|----------|---------|------|------------|
|                       | INCREASE           | DECREASE | CURRENT | NEXT | THEREAFTER |
| ESTIMATED TOTAL COST  |                    |          |         |      |            |
| PERSONAL SERVICES     |                    |          |         |      |            |
| CURRENT EXPENSE       |                    |          |         |      |            |
| REPAIRS & ALTERATIONS |                    |          |         |      |            |
| EQUIPMENT             |                    |          |         |      |            |
| OTHER                 |                    |          |         |      |            |

2. Explanation of Above Estimates:

3. Objectives of These Rules:

FILED

TITLE 4  
LEGISLATIVE RULES  
WEST VIRGINIA BOARD OF CHIROPRACTIC EXAMINERS

JUL 3 11 03 AM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 2  
DISCIPLINARY AND COMPLAINT PROCEDURES FOR CHIROPRACTORS

**§4-2-1. General.**

1.1. Scope. This rule specifies a procedure for the investigation and resolution of complaints against chiropractors and those persons or corporations rendering chiropractic services.

1.2. Authority. -- West Virginia Code §30-16-1 et seq. and §30-1-1 et seq.

1.3. Filing Date. -- \_\_\_\_\_, 19\_\_

1.4. Effective Date. -- \_\_\_\_\_, 19\_\_

1.5. This series replaces section 13 of series 1 of this title.

**§4-2-2. Application.**

2.1 This rule applies to all chiropractors and persons or corporations providing chiropractic services.

**§4-2-3. Definitions.**

The following words and phrases as used in this rule have the following meanings, unless the context otherwise requires:

3.1. "Applicant" means any person making application for an original or renewal license or a temporary license pursuant to West Virginia Code §30-16-1 et seq.

3.2. "Board" means the West Virginia Board of Chiropractic.

3.3. "License" means a license or temporary permit issued by the Board pursuant to West Virginia Code §30-16-1 et seq.

3.4. "Chiropractor" means a person who practices chiropractic. Chiropractic is defined in West Virginia Code §30-16-1 et seq.

3.5 "Ethics Investigator" means a person licensed to practice chiropractic in this state, and who is hired by the Board for the purpose of reviewing complaints against chiropractors.

**§4-2-4. Causes for Denial, Probation, Limitation, Discipline, Suspension or Revocation of License.**

4.1. The Board may deny an application for license, place a chiropractor on probation, limit or restrict the same, suspend a license or revoke any license issued by the Board, upon satisfactory proof that a licensee 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 §30-16-1 et seq. or the rules of the Board.

**§4-2-5. Disposition of Complaints.**

5.1. Any person, firm, corporation, member of the Board, or public officer may make a complaint to the Board which charges a chiropractor with a violation of West Virginia Code §30-16-1 et seq. or 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:

5.1.1. The name and address of the chiropractor against whom the complaint is lodged;

5.1.2. The date of care;

5.1.3. The name of any person who may have treated the patient after the alleged incident; and,

5.1.4. The name of any health care institution in which the patient was an inpatient or outpatient after or during the alleged incident.

5.2. A complaint against a chiropractor 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 §30-16-1 et seq. or the rules of the Board.

5.3. 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.

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

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

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

5.6.1. That the matter will be reviewed by the Board;

5.6.2. 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,

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

5.7. The Board shall send a copy of the complaint, including any supportive documentation, by certified mail to the chiropractor 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.

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

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

5.10. After receipt and review of a complaint, unless the complaint is determined to fall within the provisions of subdivision 5.6.2 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.

5.11. 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.

5.12. 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 licensee or applicant in question or other involved parties, a report of which shall be placed in the investigation file.

5.13. 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.

5.14. The Board, its president, 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 president to issue a subpoena or subpoena duces tecum. Any such request shall be accompanied by a brief statement specifying the necessity for the same.

5.15. At any point in the course of an investigation or inquiry into a complaint, the Board may determine that there is not and will not be sufficient evidence to warrant further proceedings, or that the complaint fails to allege misconduct for which a chiropractor may be sanctioned by the Board: Provided, that in the event, the review and investigation of a complaint is assigned to the committee or an ethics investigator, the committee or ethics investigator shall make their respective findings and recommendations to the Board prior to the Board dismissing the complaint.

#### **§4-2-6. Contested Case Hearings.**

6.1. The Board may refuse to renew a license or suspend, such if it determines there is probable cause to believe that a chiropractor's practices or acts constitute an immediate danger to the public.

#### **§4-2-7. Appeals**

7.1 Any applicant who has had his or her application for a license denied by order of the Board may appeal the order within thirty (30) days of that action in accordance with the contested case hearing procedures set forth in West Virginia Code §29A-6-1 et seq. or the rules of the Board. Provided, that the appeal

shall not include cases in which the Board denies a license after an examination to test the knowledge or the ability of the applicant where the controversy concerns whether the examination was fair or whether the applicant passed the examination.