

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2004 DEC -8 A 11: 52

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Examiners in Counseling TITLE NUMBER: 27

RULE TYPE: Procedural CITE AUTHORITY: 6-9A and 30-31-1

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

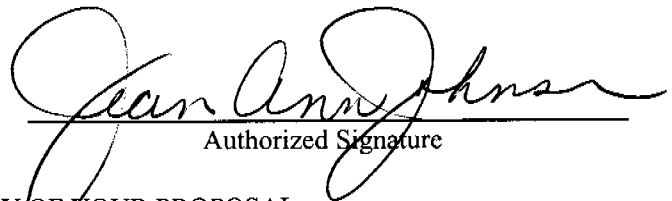
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 7

TITLE OF RULE BEING PROPOSED: Open Meetings and Bylaws

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 February 6, 2005 AT 12 noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WVBEC, Post Office Box 129,
Ona, WV 25545

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

West Virginia Board of Examiners in Counseling

Post Office Box 129

Ona, West Virginia 25545

www.wvbec.org

counselingboard@msn.com

Brief Summary of Series 7

Open Meetings and Bylaws

This rule allows any and all individuals desiring to attend or address the West Virginia Board of Examiners in Counseling to understand how the meetings are structured and how business is conducted during the meetings.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 7, Open Meetings and Bylaws

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Examiners in Counseling

Address: Post Office Box 129, Ona West Virginia 25545

Phone Number: 800-520-3852 Email: counselingboard@msn.com

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This procedural rule will not have any financial impact. This rule sets forth the structure of all regular and special meetings and announcement of such meetings.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other			
2. Estimated Total Revenues			

Rule Title: Series 7, Open Meetings and Bylaws

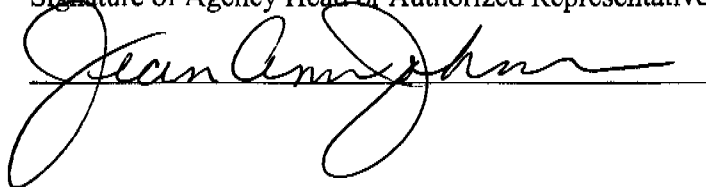
3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: 12/07/04

Signature of Agency Head or Authorized Representative



West Virginia Board of Examiners in Counseling

Post Office Box 129


Ona, West Virginia 25545

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counselingboard@msn.com

Approval of Filing

The procedural rule, Series 7, Open Meetings and Bylaws was approved at the October 22, 2004 board meeting.



John Charonko, Chair

West Virginia Board of Examiners in Counseling

Post Office Box 129

Ona, West Virginia 25545

www.wvbec.org

counselingboard@msn.com

Statement of Circumstance and Purpose

The Counseling Board wanted to establish an open meetings rule so the public, news media, professional associations, state agencies and any other interested parties would understand how a board meeting will be conducted.

The purpose of this rule is to educate the public and all other interested parties so they may have knowledge of the correct procedures to follow when attending a board meeting or addressing the board during a meeting.



John Charonko, Chair

**TITLE 27
PROCEDURAL RULE
WEST VIRGINIA BOARD OF EXAMINERS
IN COUNSELING**

**SERIES 7
OPEN MEETINGS AND BYLAWS**

FILED

2004 DEC -8 A 11: 52

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 27-7-1. General.

1.1 Scope. -- This procedural rule sets forth the means by which the purpose of all regular and special meetings are made available in advance to the public and the news media, except in the event of an emergency requiring immediate official action and also sets forth certain bylaws of the board.

1.2. Authority. -- W. Va. Code §§6-9A and 30-31-1

1.3. Filing Date. --

1.4. Effective Date. --

§ 27-7-2. Application and Enforcement.

This procedural rule applies to the board and any and all individuals desiring to attend or to address the West Virginia State Board of Examiners in Counseling.

§ 27-7-3. Definitions.

3.1. Board – The West Virginia State Board of Examiners in Counseling.

3.2. Meeting – The convening of a governing body of a public body for which a quorum is required.

3.3. Quorum – A simple majority of the constituted members of the board.

§ 27-7-4. Regular Meetings.

4.1. The board meets in quarterly during the months of January, April, July, and October. The length of each meeting is determined by the amount of business to be addressed by the board. A majority of the board members shall agree upon specific meeting dates. Meeting dates are determined for one (1) year in advance beginning January 1, and ending December 31.

4.2. The Executive Director shall provide notice of the date, time, location and purpose of each regular meeting to the Secretary of State, Capitol News Service, appropriate professional associations and state agencies, as well as persons and organizations who request information, at least fifteen (15) business days in advance of a regularly scheduled meeting.

4.3. Board members may submit agenda items at any time.

4.4. Non-board members may submit items for board consideration. The items should be submitted not less than thirty (30) days prior to the date of a regularly scheduled meeting. The chairperson makes the final determination on whether an item submitted less than thirty (30) days in advance shall be considered.

4.5. Individuals who desire to address the board during a regularly scheduled meeting may do so by making their wish known to the chairperson at any time prior to the call to order.

4.6. The chairperson may cancel a meeting if a quorum cannot be convened or if there are no items of business to be conducted by the board.

§ 27-7-5. Special Meetings.

5.1. The chairperson, the Executive Director or any two (2) members of the board may call a special meeting.

5.2. The Executive Director may send a written notice setting forth the time, place and matters to be considered to each member of the board at least ten (10) business days in advance of a special meeting.

5.3. The Executive Director shall file a written notice containing the time, place, and matters to be considered at least five (5) business days in advance of any special meeting, to the Secretary of State, Capitol News Service, professional associations, as well as persons and organizations who request the information.

§ 27-7-6. Emergency Meetings.

6.1. The chairperson may call a meeting in the event of an emergency requiring immediate official action by the board.

6.2. The executive director may notify members by telephone or other expedient method.

6.3. The executive director shall file a written notice containing time, place, purpose of the meeting and facts and circumstances of the emergency prior to the meeting, with the Secretary of State and Capitol News Service.

§ 27-7-7. Executive Sessions.

7.1. The board may hold executive sessions, as provided in W. Va. Code §6-9A-4., for the purpose of discussing employment promotion, resignation, discipline, discharge, or compensation of any public officer or employee unless the public officer or employee requests an open meeting; or to discuss issues affecting denial, suspension or revocation of a license unless the licensee requests a meeting; or to discuss material the disclosure of which would constitute an unwarranted invasion of an individual's privacy; or to discuss an official investigation relating to

law enforcement; or to discuss matters relating to development, administration or security of a licensure examination; or to discuss logistical or procedural methods to schedule and regulate a meeting.

7.2. The chairperson shall convene an executive session by identifying and announcing to the members of the board and public in attendance the authorization under §6-9A-4 for holding the executive session. A majority affirmative vote of the members present is required to hold the executive session. All decisions resulting from discussions during the executive session shall be made during an open meeting.

§ 27-7-8. Minutes.

8.1. The board shall prepare written minutes for all meetings. Minutes are available to the public within a reasonable time after the meeting and include:

8.1.a. The date, time and place of the meeting

8.1.b. The name of each board member present or absent

8.1.c. The name of each staff member and guest present,

8.1.d. All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same, and their disposition, and,

8.2. Minutes of executive sessions may be limited to material which is not inconsistent with the provisions of W. Va. Code §6-9A.

8.3. A board member may request that a minority report be included in the minutes.

§ 27-7-9. Quorum.

9.1. A quorum for conducting business at a regular or special meeting of the board shall be a simple majority of the constituted members.

9.2. Each member has one vote on all matters of business.

9.3. The vote of a majority of all members present at any meeting of the board shall be necessary to take any action.

9.4. The board may hold regular or special meetings with one or more members participating by telephone conference call, video conference or other interactive means of conducting conference communications. Minutes shall reflect the names of participating members and a report of a roll call on each vote.

9.5. Proxy voting is prohibited.

9.6. The board may authorize a mail or email vote providing the issue to be voted on has been presented in a regular meeting of the board. Matters for vote by mail are limited to acceptance of editorial revisions or those matters where more detail is requested prior to final approval. All issues voted on by mail or email shall be discussed and the vote ratified at the next regular meeting of the board following the vote.

§ 27-7-10. Records of the Board.

All records and proceedings of the board are public records shall be available to the public during the usual and customary business hours of the board, except as provided by W. Va. Code §29B-1-4.

§27-7-11. Election of Officers.

11.1. The board shall elect officers during the annual meeting in each calendar year.

11.2. The elected officers shall be chairperson and secretary. The Executive Director shall act as treasurer while employed by the board and is not subject to election procedures.

11.3. The Executive Director shall be an ex-officio member of the board and has no voting privileges.

11.4. Officers serve for one (1) year.

11.5. Officers may be re-elected to serve one (1) additional term, but in no instance shall an officer serve more than two (2) successive terms.

11.6. Newly elected officers assume the duties of office within fifteen (15) calendar days following the date of the regular meeting during which they are elected.

§ 27-7-12. Duties of Officers

12.1. Chairperson. Presides at all meetings of the board, appoints all committees of the board, serves as or designates the chairperson for all committees and performs other duties incidental to the office.

12.2. Secretary. Records minutes of the board meetings, authorizes distribution of minutes following meetings, and performs other duties as requested by the chairperson. Shall preside if chairperson is gone and appoint someone else to take minutes.

12.3. Treasurer. The Executive Director as the appointed employee of the board, keeps an accounting of all monies received and spent on behalf of the board and provides a report of receipts and expenditures at each regular meeting of the board.

§ 27-7-13. Vacancies in Elected Offices.

13.1. Chairperson. In the event that the chairperson is unable to complete his or her term of office, there shall be a new election.

13.2. Secretary. In the event that the secretary is unable to complete his or her term in office, a new secretary shall be elected to serve the unexpired term.

§ 27-7-14. Resignation of Members.

A member who wishes to resign should send a letter of resignation to the Governor with a copy to the chairperson of the board.

§ 27-7-15. Committees.

- 15.1. Investigative Committee. Committee established to review and investigate complaints filed with the board against licensees.
 - 15.1.a. The committee will consist of four (4), but not limited to four (4), licensed professional counselors.
 - 15.1.b. The duty of this committee will be to make a preliminary evaluation of a complaint and to ascertain and report to the Board factual information related to the complaint.
 - 15.1.c. The recommendations of the Investigative Committee are advisory only.
 - 15.1.d. The Investigative Committee will hold all information concerning all complains submitted for their review and recommendations to be confidential.

§ 27-7-16 Ad Hoc Committees.

The chairperson of the board shall appoint ad hoc committees as needed to accomplish the objectives established by the board. Appointment to committees is not limited to members and may include any individual who will best serve a particular committee.

§ 27-7-17. Contested Case Hearings.

- 17.1. Contested case hearing shall be held before a quorum of the board or before an independent hearing examiner.
- 17.2. All contested case hearings are open to the public.
- 17.3. Contested case hearings shall be held as provided in W. Va. Code §29A-5-1. et. seq. and 30-31-1.
- 17.4. The board shall consider evidence gathered in a contested case hearing and shall determine denial, suspension, revocation or other disciplinary action in executive session.
- 17.5. All final decisions by the board to deny, suspend, revoke or otherwise discipline a license are public.

§ 27-7-18. Roberts' Rules of Order Newly Revised Shall Govern the Meetings of the Board in Applicable Situations Not Addressed in These Rules.

§ 27-7-19. Amendments to this Open Meetings and Bylaws Rule Shall be Made in Accordance with Established Procedures for Promulgating Procedural Rules, Pursuant to Secretary of State's rule 153 CSR 6.