

Response to comments on Title 174 Series 1 – 3

During the thirty day comment period, the WVREC received comments on all 3 series of rules. All comments were received and acknowledged via email. The Commission, staff and Counsel met on July 26, 2017 to review the comments and make changes based upon the review.

Changes that were made based upon the comments are as follows:

Series 1:

No Changes

Series 2:

174-2-2 – Roster of Active Licensees – Comment: The Commission should provide a cost free searchable database of licensees. The Commission agrees. The WVREC is in the process of updating our antiquated software. Once the is completed, a free searchable database will be made available to the public.

Series 3:

174-3-3 – A change was made to soften the existing advertising provision.

174-3-3.2c – A change was made to allow for a grace period and late fees.

174-3-3.2d – A change was made to add language that more clearly states the requirement.

174-3-3.4d – A change was made to reduce the attendance requirement from 100% attendance to 90 %.

174-3-3.5a – Language that had been stricken was reinserted

174-3-3.7.b.5 – A change was made to increase the requirement form 3 years to 5 years and to replace educational experience with teaching experience.



July 17, 2017

Jerry A. Forren
300 Capitol Street
Suite 400
Charleston, WV 25301

Dear Executive Director Forren,

I am writing today to comment on the revision of West Virginia Real Estate Commission Legislative Rule Title 174 Series 03, Requirements for Real Estate Courses, Course Providers and Instructors. I understand the purpose for the revision is to better reflect real estate training best practices by providing for the:

- audit of approved education providers, courses, and instructors; and,
- prescription of disciplinary actions against providers and instructors found in violation of the rule.

These are commendable objectives. I fear, however, in regards to distance education, the revisions, as currently stated, may not be in keeping with best practices.

As an example, I find in the revision no mention of Association of Real Estate License Law Officials (ARELLO) certification requirement for distance education courses. Going through this process now, with the pre-license broker training, gives me unique perspective that I wish to share. As you are aware, ARELLO certification assures that distance education courses use comprehensive and rigorous distance education standards. These standards foster excellence in professional education by evaluating the design and delivery of distance education courses and considers items such as the educational institution's mission, course design, interactivity of the course, delivery of the course, equipment used to maintain an acceptable learning environment, learner supportive services offered, evaluation and assessment of the course and its objectives, and commitment to support the course, if multi-agencies are involved in the delivery of the course. Yes. Earning ARELLO certification is challenging and the incremental assessments are a bear, but the process ensures a course adheres to important educational principles and that sub-par organizations will not be able to "teach to the test," which I understand was a problem before ARELLO certification was included in a previous commission operating policy.

Also absent in the proposed revision of Rule 174-03 is the lack of verification that distance learners are who they represent themselves to be. There was language to this effect, but it has been struck through for deletion. With distance education a major concern is that the student taking the course and the assessments within the course is the person that will be earning the credential. BridgeValley has a policy that addresses this concern and is attached to this letter. I

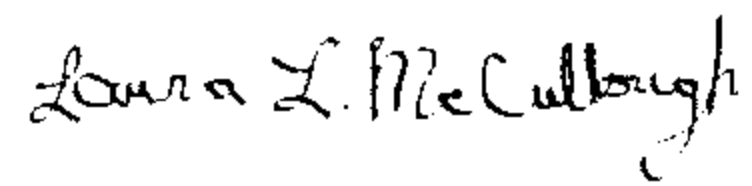
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share it now, for the commission's consideration of adopting a similar process. Basically, BridgeValley's policy states that one assignment within the course must be proctored. For the pre-license broker courses, the final exam requires the employment of a proctor. The proctor must be approved by the course instructor and agrees to monitor that the student does not cheat and verifies the student's identity. There are a few proctoring options for the student: They can hire a private proctor or they can use one of three proctoring services offered through BridgeValley.

Thank you for the opportunity to express my concerns. Please know that I am available to explain by comments further, if needed.

Very Warm Regards,

A handwritten signature in black ink that reads "Laura L. McCullough". The script is cursive and fluid, with the first name "Laura" and last name "McCullough" clearly legible.

Laura L. McCullough
Vice President, Community Education

To whom it may concern, In regard to commenting on the proposed changes to the WV Real Estate Commission Rules, Series 1-3 please see my comment below regarding ARELLO® certification being added to the law.

When ARELLO® certification was first introduced many years ago, it was a hurdle for our school. However, like most things that require work, the result was a better course after ARELLO® guidelines were met. ARELLO® has provided a well laid out structure for me as a teacher and content developer to follow. The guidelines are clear once you become familiar with the process. A course that follows ARELLO® guidelines is easy for students to navigate and promotes a student-instructor relationship that allows the teacher to truly support the student's learning. I highly support ARELLO® certification being written into the upcoming law for any educator to comply with.

Sincerely,

Billy Zwiener

CEO of Spruce School of Real Estate, CDEI Distance Instructor, Moodle LMS
Administrator and content developer

BRIDGEVALLEY COMMUNITY & TECHNICAL COLLEGE
OPERATING POLICY

Effective Date	Subject	Number	Page
August 22, 2014	PROCTORING OF ONLINE/WEB COURSES	C-OP-9-14	1 of 2
Supersedes/Supplements:			
Reference:	Distance Delivery of Instruction		

POLICY STATEMENT

In order to ensure quality and academic integrity in online educational settings, all students in an online/web course must complete at least one graded activity under the supervision of a proctor that will verify the student's identity and compliance with any restrictions on the activity. This supervision may occur in a face-to-face setting or via an approved electronic distance proctoring solution. The academic department will monitor online classes to ensure compliance with this policy.

PROCEDURES

- Instructions for proctor selection and approval will be made available within the learning management system (LMS). Students should check their syllabus to ensure compliance with the guidelines.
- Proctors must be approved by the instructor prior to testing.
- Proctors will preserve the security of any evaluation materials by not divulging these to anyone other than the student to be evaluated.
- Students may choose to use an approved electronic distance proctoring solution. If so, they will need to check within their course for instructions.
- Any costs associated with proctoring are the responsibility of the students.

DEFINITIONS

Face-to-Face Proctoring Solution - an evaluated educational activity conducted in the physical presence of the proctor.

Electronic Distance Proctoring Solution - a third-party solution in which proctoring is conducted by a person or service physically separated from the student.

Proctor - a person who monitors students during an evaluated educational activity.

Distance Education - courses in which students work outside the traditional classroom with little or no face-to-face contact with instructors and in which instruction is delivered through the use of a variety of technologies (e.g. the internet and conferencing technologies).

Online Course - a course in which 100% of the course activities are conducted asynchronously online with no requirement for the student to travel to a particular location or to conduct a course activity at a predefined time as long as course deadlines are met. This is the same as a web course.

LMS - the online Learning Management System adopted by the institution in which all online or blended courses are housed and operated.

Web Course - a course in which 100% of the course activities are conducted asynchronously online with no requirement for the student to travel to a particular location or to conduct a course activity at a predefined time as long as course deadlines are met. This is the same as an online course.

Approved by: Cabinet **Date:** 8/22/2014

BRIDGEVALLEY COMMUNITY & TECHNICAL COLLEGE
OPERATING POLICY

Effective Date	Subject	Number	Page
August 22, 2014	DISTANCE DELIVERY OF INSTRUCTION	C-OP-10-14	1 of 3
Supersedes/Supplements:	CTC at WVU Tech Policy 08-2, KV AP V-6A, KV AP V-2		
Reference:	BV C-OP-9-14, Copyright Policy, BV C-OP-8-14		

POLICY STATEMENT

BridgeValley Community and Technical College (College) will provide distance learning courses that eliminate barriers of time and place in order to meet the needs of both traditional and non-traditional students in attaining their educational goals.

Distance learning courses will be equivalent to face-to-face courses in all aspects, including student assessment, student evaluation of faculty, and access to student services. To increase access to higher education, it is important that courses be available for web delivery whenever applicable.

PROCEDURES

In order to ensure quality and academic integrity in online educational settings, the College will use a combination of best practices and comprehensive support for faculty and students engaging in online education activities. All web and blended courses will be offered utilizing the institutional web-course portal.

Faculty members who develop a web-based course shall follow these procedures:

- Obtain approval from the department chair prior to any course development work. This approval shall be documented by a memorandum from the department chair to the faculty member, with a copy to the Vice President for Academic Affairs and the Dean of Extended Learning. The expected instructional delivery date for the course shall be stipulated in this memorandum.
- Upon completion of development and prior to offering, the Extended Learning staff will perform an instructional course design review within the timeline defined by the College to determine if the course content follows best practices in design principles, and the appropriate academic unit will determine if the course is content ready and is instructionally sound.
- The appropriate academic unit will conduct outcomes assessment activities after each offering. At the request of the academic department, a review for best practices in design may be repeated by Extended Learning staff.
- The intellectual property rights to all on-line instructional materials developed through and supported by the College shall be jointly owned by the institution and the developer.

- Assessment of courses for compliance with The Higher Learning Commission Best Practices will follow the process defined by the College's academic affairs committee.
- Faculty teaching online and blended courses will be expected to adhere to the College Copyright Policy as well as to Title 17, United States Code, Section 101, which users of intellectual property and published materials adhere to copyright law protecting the original rights of the creators of works used for educational purposes.
- Faculty teaching online and blended courses must adhere to fair use guidelines in compliance with federal copyright law.
- The College will exhibit due diligence in the authentication of students in online and blended courses including password protected entry into the system and supporting the use of proctoring to ensure student identity in online evaluation and testing situations. See proctor policy.
- Student evaluation of faculty teaching online courses will be conducted online and be used for outcomes assessment and faculty evaluation purposes. Evaluations will be based on student/faculty survey results conducted at the end of each semester. Results will be sent to the Vice President of Academic Affairs, the faculty member, and the faculty member's Dean. See student evaluation of faculty policy.
- Minimum and maximum course enrollment will be established by the department chair in conjunction with the Vice President for Academic Affairs. If delivery constitutes an overload for the faculty teaching the course, payment for delivery of the distance education course will follow the adjunct salary payment schedule.

DEFINITIONS

Distance Education - courses in which students work outside the traditional classroom with little or no face-to-face contact with instructors and in which instruction is delivered through the use of a variety of technologies (e.g. the internet and conferencing technologies).

Online Course - a course in which 100% of the course activities are conducted asynchronously online with no requirement for the student to travel to a particular location or to conduct a course activity at a predefined time as long as course deadlines are met. This is the same as a web course.

Blended Course - any course that combines online or distance instruction with traditional face-to-face instruction.

Content Ready - an online course that is completely developed, instructionally sound, and ready to be taught prior to being placed on an academic course schedule. This includes having developed and/or added all content, assessments, and supporting materials to the course.

Course Design - the unique combination of learning objectives, content, media applications, evaluations, assessments and instructional strategies that are prepared in advanced of student enrollment in the course.

Course Redesign - a course that has already been designed and approved through internal quality processes but is undergoing major revision (design modifications that change 30% or more of the course design).

LMS - the online Learning Management System adopted by the institution in which all online or blended courses are housed and operated.

Web course - a course in which 100% of the course activities are conducted asynchronously online with no requirement for the student to travel to a particular location or to conduct a course activity at a predefined time as long as course deadlines are met. This is the same as an online course.

Approved by: Cabinet **Date:** 8/22/2014

COMMENT

TITLE 174 LEGISLATIVE RULE REAL ESTATE COMMISSION SERIES 1 and 2

The West Virginia Association of Realtors ("WVAR") submits the following Comment to the proposed legislative rules regarding Requirements for Real Estate Courses, Course Providers and Instructors. Only those proposed rules for which WVAR has comment are listed.

Series 1

§174-1-6 Qualifications for Broker's License.

Comment: The requirements for qualification under the existing Rules are set forth in 174-1-7 and appear in 174-1-6 in the Proposed Rules. However, the Proposed Rule omits the "Equivalent Experience" provision that is present in the current rule at 174-1-7.5, which is shown below. By omitting this provision, the Commission creates an undue burden on experienced applicants and experienced brokers moving to West Virginia. The "equivalent experience" provision should be included in any revision of the Rules.

Equivalent Experience: An applicant for a broker's license may qualify for waiver of all or part of the two year apprenticeship requirement under the following guidelines:

- ~~_____ a. Four or more years full time experience as a licensed real estate appraiser within the last ten years;~~
- ~~_____ b. Four or more years full time experience as a trust officer handling real property within the last ten years~~
- ~~_____ c. Four or more years full time experience as a subdivider, developer, or general contractor who has developed financed and sold 50 or more lots, residential units, or commercial units within the last ten years. To qualify under this provision, the applicant must have been directly involved in all phases of the development activities;~~
- ~~_____ d. Four or more years full time experiences as a loan officer of a bank, lending institution, or mortgage company in capacity directly related to the financing of real estate within the last ten years, or;~~
- ~~_____ e. Licensed as a real estate broker in another jurisdiction within the past five years. Provided, That if an applicant for a broker's license is licensed in another jurisdiction as a broker at the time the application is submitted to the Commission, he or she shall be granted a full waiver of the apprenticeship requirement.~~

§174-1-15. Trust Funds and Accounts.

15.3 Deposit of trust funds. — Unless otherwise directed or allowed in the signed purchase agreement, every broker who receives any trust funds shall **immediately or by the next business** day following receipt deposit the trust funds in the broker's trust account. (emphasis added).

Comment: The timeline emphasized above may not be reasonable in all circumstances and places an undue burden on brokers. It is suggested that all interests and duties could be satisfied by replacing the highlighted language as follows:

“...every broker who receives any trust funds shall deposit the trust funds in the broker’s trust account as soon as reasonably possible. However, if the trust funds received are in the form of cash, then they shall be deposited no later than the next business day.”

Series 2

§174-2-2. Schedule of fees.

2.14 Roster of active licensees: All counties- \$100.00; \$5.00 per county.

Comment: The Commission should provide a cost-free searchable database of licensees on its website. Other professional boards in the state, such as the West Virginia State Bar, the West Virginia Board of Examiners for Registered Professional Nurses, and the West Virginia Board of Medicine, provide free and public databases of the licensed professionals under their jurisdiction. Anyone should be able to search a licensee database for basic contact information and license status for real estate licensees. The State Bar’s membership directory is available to the public at <https://www.mywvbar.org/membership-search-1>, and additional information is available to members of the Bar following login with an ID and password.

COMMENT
TITLE 174
LEGISLATIVE RULE REAL ESTATE COMMISSION
SERIES 3

The West Virginia Association of Realtors ("WVAR"), a provider of continuing education services for real estate licensees throughout the state of West Virginia, submits the following Comment to the proposed legislative rules regarding Requirements for Real Estate Courses, Course Providers and Instructors. Only those proposed rules for which WVAR has comment are listed.

§174-3-3 Real estate courses, course providers and instructors.

Proposed Rule:

3.1. ~~Approval Certification of by Commission. -- Unless exempted by statute, all real estate courses, course providers and instructors must be approved certified by and registered with the Commission prior to advertising or offering or conducting pre-license or continuing education courses. a course of education in compliance with the pre-license education requirement provided for in W. Va. Code §30-40-14, or the continuing education requirement provided for in W. Va. Code §30-40-16. Such approval shall be by application on forms prescribed by the Commission and through a process as prescribed by the Commission. The required approval fees, set forth in Series 2 of these rules, must be submitted with the application. Application fees are non-refundable. Post-secondary education institutions accredited by an accrediting agency officially recognized by the United States Department of Education are approved providers without having to go through the approval process prescribed by the Commission.~~

(re-printed below without markup for convenience)

3.1. Approval by Commission. -- Unless exempted by statute, all real estate courses, course providers and instructors must be approved by and registered with the Commission prior to advertising or offering pre-license or continuing education courses. Such approval shall be by application on forms prescribed by the Commission and through a process as prescribed by the Commission. The required approval fees, set forth in Series 2 of these rules, must be submitted with the application. Application fees are non-refundable.

Comment:

Rule 3.1 should expressly set forth all standards and requirements for approval. Failure to do so invites subjective, if not arbitrary and capricious, enforcement. Virginia and Ohio have requirements similar to what is required by West Virginia's current practice, but these

neighboring states prescribe these requirements by rule or statute.

WVAR supports a softening of the prohibition on advertising prior to Commission approval. In this regard WVAR suggests that inclusion of a plain visible statement advising “Commission approval pending,” would be sufficient.

WVAR opposes removal of the exemption currently provided for accredited post-secondary education institutions. If a post-secondary institution has already been “accredited by an accrediting agency officially recognized by the United States Department of Education,” more than sufficient protection is thereby provided.

Proposed Rule:

3.2. *Renewal: failure to renew.*

3.2.a. To remain active, all course, course provider, and instructor approvals shall be renewed on an annual basis . . .

3.2.b. All pre-license course, course provider, and instructor approvals shall be renewed no later than December 31 of each calendar year

3.2.c. All continuing education course, course provider, and instructor approvals shall be renewed no later than June 30 of each fiscal year

Comment

WVAR suggests that the renewal be required every two years instead of annually. This would put West Virginia in a competitive position with its neighboring states, as both Kentucky and Virginia have biennial renewal requirements. There should be a grace period for instructors who miss the renewal deadline, and a fine or penalty after that for some period rather than making them start the process anew. Additionally, instructors should receive

renewal notices thirty days in advance, just like licensees.

Proposed Rule:

3.2.d. To be eligible to renew, all pre-license and continuing education instructors shall complete instructor development workshops offered by the Commission, unless the attendance is waived by the Commission.

Comment

WVAR believes that Rule 3.2.d is vague and ambiguous. The Rule should clearly state the number of workshops required during a given time period. Further, there should be a regular schedule of workshops so that instructors can plan ahead to meet the requirements.

Proposed Rule:

3.4.c. In order to sit for the real estate examination, the applicant must ~~have earned a grade of A, B or C~~ score 70% or higher in each subject area.

Comment

WVAR supports removing the current letter grade requirement and believes this places West Virginia in a more competitive position with neighboring jurisdictions.

Proposed Rule:

3.4.d. After a student has successfully completed an approved pre-license education course, the approved provider shall supply the student with a certificate of course completion which certifies the student's name and address, 100% attendance but for absences excused in accordance with Commission policy, the course completion date, the number of hours in each subject area, and the score of 70% or higher. ~~letter grade earned.~~

Comment

For 3.4.d, WVAR opposes the addition of the language "100% attendance but for absences excused in accordance with Commission policy." First, the requirement of 100% attendance seems excessive and should be dropped to 90%, as is required by Ohio. The fact

that students are required to take and pass a test on course content provides a sufficient safeguard. Second, if some absences are to be “excused in accordance with Commission policy,” that policy should be articulated.

Proposed Rule:

3.4.e. All approved providers shall maintain records indicating the students who have registered for each course, the completion date of the course and the final results of their attendance. These records must be maintained for a minimum period of five (5) years and are subject to inspection by the Commission or its authorized representative. On December 31 of each year, every approved provider shall compile a list of the students completing each class during the previous calendar year and submit the information to the Real Estate Commission prior to January 31 of the succeeding year. ~~Provided, that Post-Secondary Education Institutions approved under Section 3.1 of this rule are exempt from this requirement.~~

Comment

As stated in Comment to Rule 3.1, WVAR takes exception to the removal of the exemption for accredited Post-Secondary Education Institutions. If a post-secondary institution has already been “accredited by an accrediting agency officially recognized by the United States Department of Education,” more than sufficient protection is thereby provided.

Proposed Rule:

3.5. Continuing education.

3.5.a. Guidelines.

~~4.3.5.a.1. All continuing education courses should shall cover real estate subjects which, the Commission finds relevant to fulfill its statutory duty of protecting the public. contribute directly to the professional competence of the individual.~~

Comment

WVAR opposes this proposed change, although the word “should” can properly be changed to “shall.” WVAR asserts that the purpose of continuing education is precisely as

previously annunciated – “to contribute directly to the professional competence of the individual.” Although worthwhile continuing education no doubt promotes the Commission’s charge of protecting the public, the subject and focus of continuing education should remain enhancing the professional competence of licensees.

The Regulations governing mandatory continuing legal education (“MCLE”) for West Virginia lawyers (<http://www.wvbar.org/wp-content/uploads/2012/04/regs.pdf>) provide guidance. MCLE Regulation 4 provides standards for determining if “a continuing legal education activity qualifies for accreditation”:

- a. It is an organized program of learning (including a workshop, symposium or lecture) which contributes directly to the professional competency of an attorney;
- b. It deals primarily with matter directly related to the practice of law or to the professional responsibility or ethical obligations of the member;
- c. Activities which involve the crossing of disciplinary lines, such as a medicolegal symposium or an accounting tax law seminar, may be approved;
- d. Each activity is taught by a person qualified by practical or academic experience to teach the activity the person covers. Legal subjects should normally be taught by lawyers;
- e. While comprehensive written materials need not be distributed for every course, thorough, high quality, readable, carefully prepared written outlines and/or materials should be distributed to attendees at or before the time the course is offered.

Similar standards should be adopted by the Real Estate Commission.

Proposed Rule:

~~2.3.5.a.2. Materials used in programs~~ Course content and all course materials should be developed by qualified individuals for use with specified teaching methods.

Comment

This Rule (as currently written and as proposed) is vague. WVAR suggests that the language of proposed Rule 3.5.a.2 be amended to provide guidance similar that found in Regulation 4(e) for continuing legal education, as again quoted below:

While comprehensive written materials need not be distributed for every course, thorough, high quality, readable, carefully prepared written outlines and/or materials should be distributed to attendees at or before the time the course is offered.

Proposed Rule:

3.5.b. Approved providers shall make application to the Commission for approval of every continuing education course. The application shall be accompanied by a copy of all course materials proposed to be used in the course, a copy of any proposed advertisements, and any other information that may be required by the Commission.

Comment

WVAR believes that proposed Rule 3.5.b should be relaxed with respect to submission and approval of advertising. As noted above, all parties would be better served if providers could advertise continuing education courses prior to approval, so long as said advertisements included clear and conspicuous disclaimers that approval of the course was still pending. The Commission does not require prior-approval for licensee advertisement to the public, but has established general guidelines. This same pattern should be followed for provider advertisement to licensees.

Further, WVAR suggests that the language “any other information that may be required

by the Commission” is unnecessarily vague and that all information that might be required should be specified in the Rule.

Proposed Rule:

3.5.d. The Commission ~~will~~ shall approve courses that deal with real estate related subjects, including but not limited to real estate law, agency, ethics, civil rights, equal opportunity, appraisal, contract law, finance, and principal/agent relationships.

Comment

The proposed change to Rule 3.5.d is welcomed by WVAR, as it adds more structure and definition to the course approval process. Other topics that might be added would include technology, office management, marketing strategies, negotiation techniques; working with specialty niches (military, seniors, etc.); environmental issues affecting real estate; and others.

Proposed Rule

3.9. All approved pre-license and continuing education instructors shall complete instructor development workshops when offered by the Commission, unless the attendance is waved by the Commission.

Comment

Just like Rule 3.2.d (with the same operative language), Rule 3.9 is vague and ambiguous. The Rule should clearly state the number of workshops required during a given time period. Further, there should be a regular schedule of workshops so that instructors can plan ahead to meet the requirements.

Proposed Rule

~~3.5. Promotion of Products or Services Prohibited. — A course provider or instructor may not promote any product or service while offering or conducting any pre-license or continuing education course.~~

3.10. No product or service may be promoted or sold during a real estate pre-license or continuing education offering.

Comment

Proposed Rule 3.10 is vague and ambiguous, as it does not define what activity is prohibited or specify when it is prohibited. For example, if a continuing education offering is sponsored by Bank-A, what activities by Bank-A are prohibited? May it provide writing pads and pens with its name and logo? May it have a table in the lobby devoted to its home mortgage products? Federal law (RESPA) expressly contemplates that such activity is permissible, as it provides for “[n]ormal promotional and educational activities that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement services or business incident thereto.” 12 CFR § 1024.14(g)(vi).

Proposed Rules

174-3-4. Audits of approved providers, courses and instructors; Report and response required; Investigations.

174-3-5. Disciplinary Actions for approved Pre-license and Continuing Education Providers and Instructors.

Comment

Proposed Rules 174-3-4 and 174-3-5, in their entirety, are unreasonable and place West Virginia in a noncompetitive position in comparison to our neighboring jurisdictions. The Rules impose subjective standards, invite arbitrary enforcement and lack the sort of objective criteria

that allow providers and instructors to monitor their internal practices and thereby avoid the excessive penalties put in place by the proposed Rules.

While audits and inspections are common in neighboring jurisdictions, such inspections are focused on detecting objective wrongdoing, such as violations of statute, falsification of documents and fraud. In contrast, proposed 174-3-4 takes aim at such subjective “violations” as “outdated teaching . . . strategies,” “poor performance on the licensing examination,” “sarcasm,” “making inappropriate remarks unrelated to the subject matter,” “disorganization,” and failure “to utilize a variety of teaching methods to accommodate visual, auditory and tactile learning styles.” This creates a highly subjective standard and invites arbitrary enforcement.

Proposed Rules:

4.6. The audited real estate course provider or instructor will receive a written warning and be given a specified amount of time to correct the issues, if found in violation of any of the following:

4.7. The audited real estate course provider and/or instructor shall submit a written response to the Commission, at the end of the time specified in the written warning, outlining the actions taken to resolve the issues.

4.8. Failure to respond or take the necessary corrective measures may result in non-renewal and/or disciplinary action set forth in this rule.

Comment

Proposed 4.6, 4.7 and 4.8 should specify the time period allowed. For example, instead of “. . . and be given a specified amount of time to correct the issues,” 4.6 could provide “. . . and shall be given a specified period of time not less than 60 days to correct the issues.”

Although 45 days or 90 days might be reasonable, WVAR suggests 60 days to track the time period provided for the Commission's report in proposed Rule 4.4.

Proposed Rule:

3.7.a. The approval requirement set forth in 3.1. of this rule shall not apply to any guest speaker or to any professor of a post-secondary educational institution teaching real estate or related college courses.

Comment

The language of Propose Rule 3.7.a should be added to Proposed Rule 3.1 and Proposed Rule 3.8 (below).

3.8. Instructors of distance education courses shall obtain Distance Education Instructor Certification from IDECC (International Distance Education Certification Center) prior to their application for approval by the Commission and must submit verification of the certification.

Proposed Rule:

3.7.b. An instructor will be approved by the Commission only if he or she:

- | | |
|----------|---|
| 3.7.b.1. | Is an attorney at law with a minimum of five (5) years of active practice in the area of study he or she proposes to teach; |
| 3.7.b.2. | Holds a degree in real estate from an accredited college or university; |
| 3.7.b.3. | Is a licensed real estate broker, associate broker, or salesperson with a minimum of five (5) years experience in the area of study he or she proposes to teach; |
| 3.7.b.4. | Holds a degree from an accredited college or university and has at least (2) years of teaching experience and possesses a minimum of two hundred (200) classroom hours in the area of study he or she proposes to teach; or |
| 3.7.b.5. | Has a minimum of three (3) years of professional or educational experience as a teacher in the area of study he or she proposes to teach. |

Comment

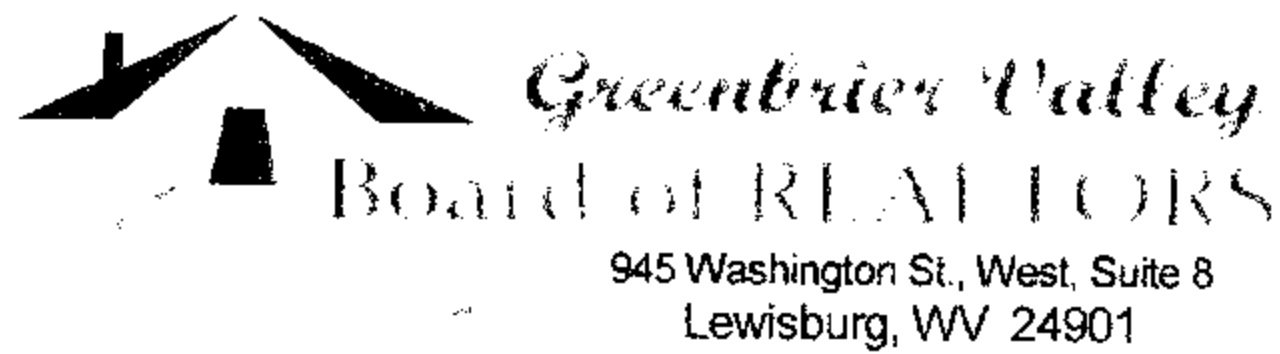
Only the numbering of Rule 3.7.b has been modified from the existing 3.4.b, but WVAR believes that the Rule is too restrictive. WVAR notes the following points in this regard:

- 3.7.b.1 requires an attorney to have five (5) years' experience in the area of study that will be taught. In Virginia, an attorney need only be admitted to practice and engaged in real estate-related law. WVAR is of the opinion that a licensed attorney has unique knowledge, not to mention a professional duty, that is of real value to any licensee or potential licensee seeking continuing education.
- 3.7.b.2 requires a bachelor's-level degree in real estate. Ohio, on the other hand, only looks for a bachelor's degree in a related field. In the alternative, Ohio asks for a combined five (5) years of education and full-time experience in the related field. 3.7.b.3 does not provide that alternative; instead, it takes an either-or approach—either one has a bachelor's degree in real estate or five (5) years' experience in the area of study that the proposed instructor will teach. No combination of education and experience is available.
- Both proposed Rules 3.7.b.4 and 3.7.b.5 are objectionable because they focus on "teaching experience" rather than experience in a field related to that which will be taught. WVAR does not agree that the focus should be on "teaching experience." Such a designation disqualifies many individuals who would otherwise be able to provide valuable pre-licensure or continuing education in this state. As an alternative, WVAR suggests replacing the requirement in these Rules for "teaching experience," to "professional experience."

Rule 3.7.b makes no provision for individuals with professional designations or state-issued teaching credentials/certificates to qualify as instructors. Both Ohio and Virginia allow holders of teaching certification, even if issued by another state, to qualify as pre-license and continuing education instructors. Virginia also has qualification provisions for holders of professional designations "such as, but not limited to, Accredited Land Consultant (ALC), Certified Residential Specialist (CRS), Certified Commercial Investment Member (CCIM), Certified Property Manager (CPM), Certified Residential Broker (CRB), Counselor Real Estate (CRE), Member Appraisal Institute (MAI), Society Industrial Office Realtors (SIOR),

Senior Residential Appraiser (SRA), or Senior Real Estate Property Appraiser (SRPA)[.]” 18 V.A.C. § 135-20-360(B)(3). Virginia further has qualification provisions for those who have five (5) years of teaching experience in an accredited school, with no reference to the area in which the teaching experience. Another of the possible routes to qualification in the Commonwealth of Virginia includes fully designated membership in the Real Estate Educators Association, holding the Designated Real Estate Instructor (DREI) designation.

Additionally, WVAR believes that Rule 3.7.b. should include a provision similar to that included in the Virginia rules regarding instructor qualifications, namely, that the requirements for instructor qualifications may be waived upon proof of experience in related fields of real estate.



July 26, 2017

West Virginia Real Estate Commission
300 Capitol Street, Suite 400
Charleston, WV 25301

Re: Title 174 Legislative Rule Real Estate Commission

To Whom it May Concern:

This letter is from the members of the Greenbrier Valley Board of REALTORS® which represent Greenbrier, Monroe, Pocahontas and Summers counties in regards to the proposed changes submitted to the Commission from the West Virginia Association of Realtors.

We are collectively writing this letter to express our views to support all comments and recommendations that have been submitted to the Commission by the West Virginia Association of REALTORS® regarding "Requirements for Real Estate Courses, Course Providers and Instructors".

Thank you in advance for your consideration.

Respectfully

A handwritten signature in cursive script that reads "Bobbie Jackson".

Bobbie Jackson, President
Greenbrier Valley Board of REALTORS®



408 Randolph Street
Martinsburg, WV 25401
(304) 263-8512 Fax (304) 267-8120

MEMBER

West Virginia Association of REALTORS®
and
NATIONAL ASSOCIATION OF REALTORS®

July 25, 2017

Mr. Jerry Forren, Executive Director
West Virginia Real Estate Commission
300 Capitol Street, Suite 400
Charleston, WV 25301

Dear Mr. Forren;

As the REALTOR Association in the Eastern Panhandle of West Virginia, we are a provider of services and continuing education for real estate agents and brokers in our area.

We support the West Virginia Association of REALTORS® in their comments for the proposed changes to the WV Real Estate Commission Rules, Series 1-3

Thank you for your time and if you have any questions, please do not hesitate to contact me.

Sincerely,

Eric Butler
2017 President



POTOMAC HIGHLANDS BOARD OF REALTORS
P.O. BOX 1150
KEYSER, WV 26726

July 21, 2017

West Virginia Real Estate Commission
300 Capitol Street, Suite 400
Charleston, WV 25301

Ladies and Gentlemen:

The Potomac Highlands Board of REALTORS is comprised of licensee members in Mineral, Hampshire, Hardy, Grant and Pendleton Counties. This letter represents our support for the suggested comments and amendments to the proposed legislative rule changes as have been prepared by the West Virginia Association of REALTORS.

We concur with the concerns specifically regarding continuing education for our members. As the code has currently created a restrictive environment for courses for members, it appears that the proposed changes would move toward further restrictions. As it is now, it is difficult for licensees to find affordable, interesting, and non-repetitive courses to take each year. Limiting the instructors willing/able to teach in WV and limiting the type of courses they can teach even further will only make it more difficult for licensees to obtain not just the required 7 hours, but additional hours to continue to develop their businesses.

While it is clear some changes to the code are necessary and timely, it is important that you consider the business climate these changes create for our profession.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy K. White".

Amy K. White
President, Potomac Highlands Board of REALTORS



Kanawha Valley Board of REALTORS®

2110 Kanawha Blvd, E Suite 201

Charleston, WV 25311

Phone 304-344-9851

Fax 304-344-4139

July 26, 2017

West Virginia Real Estate Commission
300 Capitol Street, Suite 400
Charleston, WV 25301

Re: Title 174 Legislative Rule Real Estate Commission

To Whom It May Concern:

This letter from the Kanawha Valley Board of REALTORS® President David Darby, whom speaks for the membership, respectfully asks that you support all comments and recommendations that have been submitted to the Real Estate Commission by the West Virginia Association of REALTORS® regarding Title 174 Legislative Rule Real Estate Commission (Requirements for Real Estate Courses, Course Providers and Instructors)

Kindest regards,

A handwritten signature in black ink. The signature appears to read "David Darby by Ann Boggs". The script is fluid and cursive.

David Darby, President by Ann Boggs, Executive Vice President
Kanawha Valley Board of REALTORS®

Kanawha Valley Board of REALTORS® Mission is to enhance the real estate industry through leadership, innovation, professional development, community relationships and services to our members.

WESTON-BUCKHANNON BOARD OF REALTORS

PO BOX 910
BUCKHANNON, WV 26201
304 472-0320

July 25th, 2017

Dear Sirs,

The Board of Directors of the Weston-Buckhannon Board of REALTORS reviewed the comments that the West Virginia Association of REALTORS submitted for our support.

The Weston-Buckhannon Board of REALTORS fully supports the West Virginia Association of REALTORS comments regarding the proposed legislative rules for Requirements for Real Estate Courses, Course Providers and Instructors.

Respectfully submitted,

Terrinda M Currence, Executive Officer
Weston-Buckhannon Board of REALTORS

Mercer-Tazewell County Board of Realtors®
1460 Main Street
Princeton WV 24740
Phone: (304) 425-9240
Fax: (304) 425-9240
mcbrrmls@frontier.com
www.mtcbrmls.com



July, 24, 2017

Dear Real Estate Commission:

In conjunction with the comment period for the prospective Legislative Rules Changes with Rule #3.1, #3.2, #3.2.d, #3.4.d, #3.4.e, #3.5, #3.5.a.2, #3.5.b, #3.9, #3.10, #174-3-4, #174-3-5, #3.7.a, #4.6, #4.7, #4.8, #174-1-15, #174-2-2, the Mercer-Tazewell County Board of Realtors is in agreement with the comments and suggestions as provided by the WV Association of Realtors (WVAR). As noted, WVAR was in agreement with proposed changes with #3.4.c, and #3.5.d.

The Mercer-Tazewell County Board of Realtors would appreciate the consideration of the comments and suggestions as made by WVAR in order to make our industry, our careers, and our livelihood more accommodating and consistent with adjacent states – in our instance with Virginia. We acknowledge and commend the dutiful work of the RE Commission.

Respectfully submitted,

Mike Hazlewood, President
Mercer-Tazewell County Board of REALTORS®