



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Psychologists TITLE-SERIES: 17-04
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Disciplinary and Complaint Procedures for Psychologists
CITE STATUTORY AUTHORITY: §30-21-6

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/17/2023 9

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: WVBEP
ADDRESS: PO Box 3955
Charleston, WV 25339
EMAIL: psychbd@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule contains the Board's complaint process.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Changes to the appeal reference as indicated in SB 275 of 2021. This also corrects punctuation within the rule.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

Zero

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

Zero

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

Zero

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No economic impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Kathy G Lynch -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 17
LEGISLATIVE RULE
WV BOARD OF EXAMINERS OF PSYCHOLOGISTS

SERIES 4
DISCIPLINARY AND COMPLAINT PROCEDURES
FOR PSYCHOLOGISTS

~~§~~17-4-1. General.

1.1. Scope. -- This rule specifies a procedure for the investigation and resolution of complaints against psychologists.

1.2. Authority. -- W. Va. Code ~~§§§§~~30-21-6 and 30-1-4.

1.3. Filing Date. -- ~~January 23, 2001.~~

1.4. Effective Date. -- ~~March 1, 2001.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2029.

~~§§~~17-4-2. Application.

This rule applies to all licensed psychologists, school psychologists and school psychologist independent practitioners, and to all supervised psychologists, supervised school psychologists and supervised school psychologist independent practitioners.

~~§§~~17-4-3. 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 permit pursuant to W. Va. Code ~~§§~~30-21-1 et seq.

3.2. "Board" means the West Virginia Board of Examiners of Psychologists.

3.3. "Ethics coordinator" means a lay member of the Board appointed to coordinate the processing of complaints through an ethics investigator.

3.4. "Ethics investigator" means a person licensed to practice psychology in this state, and who is hired by the Board for the purpose of reviewing complaints against psychologists and supervised psychologists.

3.5. "License" means a license or temporary permit issued by the Board pursuant to W. Va. Code ~~§§~~30-21-1 et seq.

3.6. "Licensee" means an individual who holds a license to practice psychology issued by the Board.

3.7. “‘Psychologist’” means licensed psychologist, school psychologist, school psychologist independent practitioner and applicant.

3.8. “‘Supervised psychologist’” means supervised psychologist, supervised school psychologist, and supervised school psychologist independent practitioner.

~~§§~~17-4.4. Causes for Denial, Probation, Limitation, Discipline, Suspension or Revocation of Licenses of Psychologists.

4.1. The Board may deny an application for license, place a supervised psychologist on probation, require additional years of supervision for supervised psychologists, limit, restrict, suspend or revoke the approval of any supervised psychologist to progress through the licensure application process, place a licensee on probation, limit or restrict a license, suspend a license or revoke any license issued by the Board, upon satisfactory proof that the psychologist or supervised psychologist 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 W. Va. Code ~~§§~~30-21-1 et seq. or the rules of the Board.

~~§§~~17-4.5. 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 psychologist or supervised psychologist with a violation of W. Va. Code ~~§§~~30-21-1 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:

5.1.1. The name and address of the psychologist or supervised psychologist against whom the complaint is lodged;

5.1.2. The date(s) of the incident(s);

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

5.1.4. The name of any health and/or mental health care institution in which the patient was an inpatient or outpatient after or during the alleged incident(s).

5.2. A complaint against a psychologist or supervised psychologist shall allege that the psychologist or supervised psychologist 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 W. Va. Code ~~§§~~30-21-1 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; or,

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.

5.7. The Board shall send a copy of the complaint, including any supporting documentation, by certified mail to the psychologist or supervised psychologist 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. In the event the complaint is against any supervised psychologist, the Board shall also send a copy of the complaint, including any supporting documentation, by certified mail to the supervisor of the supervised psychologist 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.

5.9. Requests for comment on complaints sent to psychologists or supervised psychologists shall be considered properly served when sent to their last known address. It is the psychologist's or supervised psychologist's responsibility to keep the Board informed of his or her current address.

5.10. Upon receipt of a psychologist's or supervised psychologist's comments in response to a complaint, the Board shall promptly send a copy of the same, including any supporting documentation, to the complainant who shall be afforded an opportunity to submit a written reply within twenty days.

5.11. Board members shall refrain from contact with all concerned parties pending receipt of the psychologist's or supervised psychologist's response or expiration of the time for the psychologist or supervised psychologist to respond.

5.12. After receipt and review of a complaint, unless the complaint is determined to fall within the provisions of sub-division 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.

5.13. The review and investigation of complaints may be assigned to an ethics investigator. In the event a complaint is assigned to an ethics investigator, Board members shall refrain from contact with the ethics investigator as well as all concerned parties pending receipt of the ethics investigator's report. Provided, That the ethics coordinator may communicate with the ethics investigator for the purpose of facilitating the processing of complaints. Provided further, that the ethics investigator should attempt to

may appeal the order to the Intermediate Court of Appeals in accordance with W. Va. Code §§29A-5-4 and 51-11-1 *et seq.*

~~6.2. Any psychologist who has had his or her license suspended and any supervised psychologist who has had their approval to progress through the licensure application process suspended by the Board without a hearing on the basis that the psychologist or supervised psychologist's continuation in practice constitutes an immediate danger to the public shall be entitled to a hearing on the action in accordance with the contested case hearing procedures set forth in W. Va. Code §29A-5-1 *et seq.* and the rules of the Board.~~