



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Medical Imaging And Radiation Therapy Technology Board Of Examiners TITLE-SERIES: 18-04

RULE TYPE: Procedural Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Disciplinary and Complaints Procedures

CITE STATUTORY AUTHORITY: Chapter 30 Article 23

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

August 16, 2025

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

Yes

Jamie S Browning -- 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 18
PROCEDURAL RULE
WEST VIRGINIA MEDICAL IMAGING AND RADIATION
THERAPY TECHNOLOGY BOARD OF EXAMINERS

SERIES 4
DISCIPLINARY AND COMPLAINT PROCEDURES

§18-4-1. General.

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

1.2. Authority. -- W. Va. Code §§ 30-23-1 et seq. and 30-1-1 et seq.

1.3. Filing Date. -- July 16, 2025.

1.4. Effective Date. -- August 16, 2025.

§18-4-2. Application.

This rule applies to all licensees and permittees under W.Va. Code § 30-23-1 et seq.

§18-4-3. 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 an application for an original or renewal license, apprentice license, a podiatry permit or a temporary permit pursuant to W. Va. Code §30-23-1 et seq.

3.2. "Apprentice License" is a license issued to any person working towards certification in Nuclear Medicine or Magnetic Resonance Imaging.

3.3. "Board" means the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.

3.4. "License" has the same meaning as W. Va. Code § 30-23-4(i).

3.5. "Licensee" has the same meaning as W. Va. Code § 30-23-4(k).

3.6. "Permittee" has the same meaning as W. Va. Code § 30-23-4(q).

3.7. "Representative" means a licensee who is the Executive Director of the Board or Counsel for the Board.

§8-4-4. Disposition of Complaints.

4.1. Any individual may make a complaint to the Board concerning a licensee or permittee.

4.2. The Board may accept an anonymous complaint if the information provided is adequate to begin the investigation.

4.3. The Board may accept a complaint in writing, by telephone or in person. The Board may provide a form for the purpose of submitting a written complaint, but shall accept the complaint if the information includes:

4.3.1. The alleged violation which prompted the complaint.

4.3.2. The name of the individual against whom the complaint is lodged.

4.3.3. The date the incident occurred; and

4.3.4. The name or names of witnesses to the incident.

4.4. All complaints shall be referred to the Executive Director.

4.5. A complaint against a licensee or permit holder must claim that the individual has engaged in behavior, practices, or actions that constitute professional negligence or a deliberate deviation from recognized professional or ethical standards, in violation of W. Va. Code § 30-23-1 et seq. or the Board's Standards of Ethics pursuant to 18CSR5.

4.6. 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.

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

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

4.9. The Executive Director shall conduct an investigation to determine the validity of the allegation contained in the complaint.

4.10. The Executive Director shall report the complaint to the board, outlining the allegations, relevant facts, and findings.

4.11. The Board will determine whether the complaint is beyond its jurisdiction and, if so, may offer the complainant guidance on alternative means of resolution.

4.12. The Board shall notify the individual of an alleged violation of the Board's Standards of Ethics by sending a copy of the complaint, along with any supporting documentation. The individual will be requested to submit a written response within thirty (30) days of receiving the complaint. Failure to respond within the specified timeframe may be considered an admission of the allegations.

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4.13. Requests for responses to complaints sent to licensees, permittees, or applicants shall be considered properly served when sent to their last known address. It is the responsibility of the licensee or permittee, or applicant, to keep the Board informed of his or her current address.

4.14. Upon receipt of a licensee's, permittee's, or applicant's response to a complaint, the Board shall promptly send a copy of the response, including any supporting documentation, to the complainant. If a response is not submitted to the Board, it will be considered an admission of the allegations.

4.15. To help resolve a complaint, the Executive Director may request any individual to attend an informal, investigative conference. The Executive Director will provide notice, including the issues to be discussed. The Executive Director shall report the findings to the board at its next scheduled meeting, outlining the allegations, relevant facts, and findings.

4.16. The Board may issue subpoenas and subpoenas duces tecum to complete the Board's investigation and to determine the truth or validity of complaints. Any such request shall be accompanied by a brief statement specifying the necessity for the same. A subpoena issued hereunder may require any facility employing or licensing or practicing radiologic technology to allow inspection of the premises or other tangible things or records in the possession of or controlled by the following. Any member of the board, the Board's legal counsel, or the Executive Director may sign a subpoena or other legal document on behalf of the board.

4.17. At any stage of an investigation or inquiry, the Board may conclude that there is insufficient evidence to proceed or that the complaint does not allege conduct warranting disciplinary action and dismiss the complaint.

4.18. Upon completion of the investigation, the Board may negotiate the terms of a consent agreement if probable cause for disciplinary action is established.

4.19. Any member of the Board, the Board's legal counsel, or the Executive Director may sign a consent decree or other legal document on behalf of the board.

4.20. The Board shall review the terms of the consent agreement and all investigative information. The Board may approve the consent agreement, request revisions to the consent agreement, or reject the consent agreement.

4.21. If the Board rejects the consent agreement, the Representative shall schedule a hearing on the complaint.

4.22. If the licensee or permittee contests the allegations and an agreement can not be reached, the Representative shall schedule a hearing on the complaint. All hearings shall be held in accordance with W. Va. Code § 29A-5-1 et seq. of the Administrative Procedures Act.

4.23. A hearing shall be held before a hearing examiner or before members of the Board, pursuant to 18CSR3.

§18-4-5. Recovery Program.

5.1. The consent agreement may require participation in a Recovery Program.

5.1.1. The board will pay the monthly administration fee per enrolled licensee.

5.1.2. The licensee will pay for all other required costs.

5.1.3. The Recovery Program will complete an individualized evaluation for each enrolled licensee.

5.1.4. The Recovery Program will complete an individualized treatment plan for each enrolled licensee.

5.1.5. The licensee will sign a contract with the Recovery Program to complete the required treatment and evaluations.

5.1.6. The Recovery Program will complete a fit-for-duty evaluation for each enrolled licensee.

5.1.7. The Recovery Program will require all enrolled licensees to notify their employers and medical practitioners of their participation in this program.

5.1.8. The Recovery Program shall submit quarterly reports to the Board.

5.1.9. The Recovery Program shall submit any failure of its participants to comply with its requirements to the Board immediately.

§18-4-6. Causes for Denial, Probation, Limitation, Discipline, Suspension or Revocation of Licenses or Permit.

6.1. The Board may deny an application for license, apprentice license or permit, place a licensee or permittee on probation, limit or restrict a license, suspend a license, apprentice license or permit or revoke any license, apprentice license or permit issued by the Board, upon satisfactory proof that a licensee or permittee has engaged in behavior, practices, or actions that constitute professional negligence or a deliberate deviation from recognized professional or ethical standards, in violation of W. Va. Code § 30-23-1 et seq. or the Board's Standards of Ethics pursuant to 18CSR5.

§18-4-7. Appeals.

7.1. Any applicant who has had his or her application for a license, apprentice license, or permit 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 W. Va. Code § 29A-6-1 et seq. and the rules of the Board: Provided, that the appeal shall not include cases in which the Board denies a license or certificate 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.

§18-4-8. Summary Suspension of License

8.1. The Board may suspend or deny the renewal of a license, apprentice license, or permit upon finding probable cause that the individual's conduct, practices, or actions present an immediate threat to public safety. The individual is entitled to a hearing on the summary suspension; however, such a hearing must be expressly requested. If no request is made, the matter will be addressed at the

disciplinary hearing.