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July 30, 2025

Via U.S. Mail and Email

West Virginia Real Estate Commission
c/o Keri Ferro
2006 Quarrier Street
Charleston, WV 25301
keri.l.ferro@wv.gov

**Re: Kanawha Valley Board of REALTORS™ Comments to Proposed
Amendment to 174 CSR 1.**

Dear Ms. Ferro:

Enclosed are the comments offered by my client, the Kanawha Valley Board of REALTORS™ (KVBR) in relationship to the proposed amendments to Title 174, Series 1, Licensing Real Estate Brokers, Associate Brokers, and Salespersons and the Conduct of Brokerage Business, filed with the office of the West Virginia Secretary of State and noting a return date on all comments of not later than July 30, 2025. Specifically, this comment opposes the proposed new rule, §174-1-21, Broker Supervision of Salespersons and Associate Brokers.

KVBR is one of the largest Board of REALTORS™ in West Virginia, representing the interests of REALTOR™ members in a geographic footprint of 14 counties in eastern and central West Virginia. The purpose of KVBR is to enhance the real estate industry through leadership, innovation, professional development, community relationships, and services to its more than 700 members. KVBR is a trusted leader in the West Virginia real estate industry, and in that role KVBR must respectfully oppose the proposed new rule, §174-1-21, in its entirety.

KVBR believes it to be essential that the Real Estate Commission recognize the desire of KVBR to have reasonable and clear laws, rules and regulations governing their industry. However, §174-1-21, while perhaps well-intended, as proposed, misses the mark. Generally, KVBR believes the proposed rule is an unnecessary overreach into the how Brokers choose to run their businesses and makes conducting a real estate business in West Virginia harder

when the focus and stated goals of the current administration is to reduce the burden on businesses.

More specifically, KVBR's objections to the proposed §174-1-21 are as follows:

- §174-1-21.1.c. – This subsection places a broker's license in jeopardy if a broker by "[d]irecting or requiring that a salesperson or associate broker violate state, federal, or local laws while conducting licensed activity." This subsection, as written, does not take into account whether the broker knowingly or intentionally directed a salesperson or associate broker to violate the law. As written, the broker's license is subject to revocation even in instances where the broker may have given an instruction without knowing such action would violate a law or regulation. The Commission should consider amending this subsection to include "knowingly" or "intentionally" language to this subsection.
- §174-1-21.1.d – This subsection is both overly broad and ambiguous. First, the term "allowing" is not defined and subject to interpretation. Moreover, there is no distinction or clarity as to exactly what "state, federal, or local laws" the rule encompasses. The subsection, if given a literal reading, would subject a broker potential discipline if a salesperson or associate broker received a speeding ticket on the way to show a home.
- §174-1-21.1.e – Similar to the previous subsection, the broker is required to "promptly" correct or mitigate violations of license law or regulation committed by a salesperson or associate broker "after learning of the conduct giving rise to the violation." Again, this subsection is vague and ambiguous as to "promptly," and a literal reading presents further unintended consequences. The rule requires mitigation upon "learning of the conduct" and not upon learning that the conduct is illegal. In this scenario, a broker may know that a salesperson or associate broker is engaging in the specified conduct and be subject to license revocation even if they did not know the conduct was unlawful at the time it occurred.
- §174-1-21.f – This subsection attempts to confer a power over broker contracts which exceeds the statutory authority of the Commission. The Commission, pursuant to W. Va. Code §30-40-8(a)(12), has authority to create rules as to the form and use of contracts used in a real estate transaction. This subsection, however, would purport to allow the Commission to review and make

determinations as to the legality of provisions in the real estate contracts between private parties – an unreasonable intrusion into the business dealings of brokers that exceeds the powers granted to the Commission by the Legislature.

- §174-1-21.g – This subsection subjects a broker to discipline for failing to ensure “reasonable and timely communication” with the broker’s salespersons and associate brokers regarding all aspects of the brokerage’s agency relationships and real estate transactions. The overbreadth and vagueness of this subsection makes it impossible to understand or objectively enforce in any way. It seems the Commission is attempting to regulate interoffice communication between a broker and their employees. Aside from there being no identifiable method for determining what constitutes “reasonable and timely communication” or what qualifies as “all aspects of the brokerage’s agency relationships . . . and real estate transactions,” this is a needless invasion into the brokerage’s ability to operate its business as it deems appropriate.
- §174-1-21.i – This subsection requires “orientation” to be promptly provided for salespersons or associates that are new to the brokerage. However, there is no clarity as to what satisfies the orientation requirement, because “orientation” is undefined.
- §174-1-21.2 – This section requires “the broker” to provide “coaching and assistance” to a salesperson or associate broker for, at a minimum, the first two real estate transactions in which the salesperson or associate broker participates after coming under the broker’s supervision. First, this places an undue burden on the broker, as the literal reading of the rule requires the broker to personally, not through a designee, to provide coaching and assistance. Moreover, there is no definition of “coaching and assistance,” making it impossible for brokers to know if they are in compliance. Finally, this applies to all salespeople and associate brokers that come under the broker’s supervision. It makes no distinction between a newly licensed salesperson and a veteran realtor who may have taken a position with a new broker. It is a burden on the brokerage to have to hand-hold competent realtors and provide additional barriers to operating a business efficiently.

Without a complete removal of the proposed rule, §174-1-21, West Virginia real estate agents will be subject to a rule that is vague and ambiguous in its interpretation, as well as

riddled with unintended consequences. In sum, the proposed §174-1-21 creates unnecessary government overreach, and the real estate industry in West Virginia will suffer as a result of overregulation.

This concludes KVBR's comments on Legislative Rule 174 CSR 1. Again, we appreciate the opportunity to provide these comments to the Commission. It is the hope of KVBR that its opposition to this rule will be given due consideration, as it is made in the best interest of KVBR's members and the West Virginia real estate industry. Moreover, as one of the state's largest Board of REALTORS™ and an industry leader, KVBR stands ready and willing, if asked, to work with the Commission in the future for the benefit of West Virginia.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip A. Reale, II". The signature is written in a cursive style with some loops and flourishes.

Philip A. Reale, II



Ferro, Keri L <keri.l.ferro@wv.gov>

Comments

1 message

Raymond Joseph <ray@wvrealtors.com>
To: Keri L Ferro <keri.l.ferro@wv.gov>

Wed, Jul 16, 2025 at 8:15 PM

My thought process is that this is really over reach. I supervise my agents the best I can, and when I find something incorrect, I bring it to their attention. And I verify that my agents have a mentor if they are new. I am not going to be that mentor. The auditors can't police everything now, how are they going to enforce this extra?

Thanks for the chance to weigh in on the proposed updates to §174-1-21 about broker supervision. I really appreciate the Commission putting the effort into defining what good (and bad) supervision looks like. This is definitely an important conversation for our industry.

A few quick thoughts:

1. Clearer Expectations Are a Win.

The list in 21.1 (a through i) lays out a solid framework. It helps brokers know what's expected and what can get them in trouble — which ultimately protects the public and the profession.

2. Coaching Requirement in 21.2 Could Use Some Flexibility.

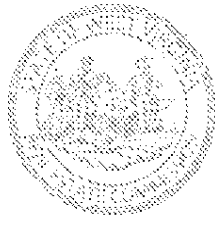
Requiring the broker to personally coach a licensee through their first two transactions sounds great in theory, but in practice it's not always that simple. Many of us run offices with full-time mentors, team leaders, or trainers who do that hands-on work while the broker oversees the big picture. Maybe there's a way to adjust the language here — something like "the broker or their designee," while keeping the broker ultimately responsible? That would let the rule work across different models and sizes of brokerages.

3. Remote Supervision – Totally Agree.

Love that they included language in 21.3 acknowledging that brokers don't have to be in the same office to supervise effectively. That's just the reality of how a lot of us are operating now. Maybe down the road there could be some examples or best practices shared for what solid supervision looks like in remote or multi-office setups.

Overall, I think this is a step in the right direction. Just wanted to offer those few thoughts based on what I'm seeing day to day. Always happy to chat more if helpful!

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RE: Response to Public Comments on proposed amendments to 174 CSR 1

The Commission has not had the opportunity to convene to fully assess how the comments and suggestions would impact the regulation. Accordingly, the Commission has elected not to incorporate the suggested change into the Rule at the present time.