



STATE OF WEST VIRGINIA
Board of Chiropractic Examiners

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COPY

October 23, 2018

The Honorable Jim Justice
Office of the Governor
State Capitol
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Governor Justice:

Re: Regulatory Review Report Due November 1, 2018

The West Virginia Board of Chiropractic has reviewed all Series under the CSR Rule Review known as the Regulatory Review. It is a comprehensive review and shall include specific information required by the enactment of this review and shall represent the official report from the West Virginia Board of Chiropractic to the Governor and the Legislative Rule-Making Review Committee. It specifically addresses information regarding each rule under the Board's jurisdiction.

As the rule making authority over the chiropractic profession, the West Virginia Board of Chiropractic submits this official regulatory review. We have tried to follow the specific outline direction in describing each rule, when it was first promulgated, and any modifications, our determination of need for the rule, and our reason for that determination as ordered by Executive Order No. 3-18.

If you have any questions, please feel free to contact the Board.

Sincerely,

Barry A. Stowers, D.C.

Chairman

/blj

Enclosure

cc: WV Legislative Rule-Making Review Committee

**WEST VIRGINIA BOARD OF CHIROPRACTIC
REGULATORY REVIEW REPORT
DUE NOVEMBER 1, 2018**

**SERIES 1 (4CSR1)
REGULATION OF CHIROPRACTIC PRACTICE**

DESCRIPTION: This rule is considered a general rule to cover the items regulated by the Board. The rule provides for the regulation of the chiropractic profession to protect the health, safety, and welfare of the public; the scope, definitions and qualifications for receiving and maintaining a license to practice chiropractic, duties of the licensee, disciplinary actions, advertising, abusive billing practices, pre-payment plans, unlawful referral and inducement, investigation and formal hearings and appeal, chiropractic assistants, certifications and specialty practice, chiropractic corporations, partnerships and other business organizations.

According to the records available, the rule was first promulgated on April 6, 1969, with modifications effective on the following dates:

1/21/1976
4/4/1977
12/31/1982
2/9/1983
4/12/1988
3/29/1999
7/1/2005
7/1/2014

DETERMINATION: It is the Board's determination that this rule should be continued without change, modifications, or repeal.

REASON: It is the opinion of the Board that Series 1 is imperative to regulate the practice of chiropractic to ensure the safety and protection of the public by ensuring that doctors have achieved proficiency and maintain a professional and ethical practice.

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**SERIES 2 (4CSR2)
PROCEDURES OF THE WEST VIRGINIA BOARD OF CHIROPRACTIC
EXAMINERS**

DESCRIPTION: Scope - these procedures establish the organization, operation and licensing of chiropractors of the West Virginia Board of Chiropractic specifically pertaining to hearings and how they should be conducted - - the transcription of reported testimony, evidence, submission of proposed findings of fact and conclusions of law, conferences and informal disposition of cases, guidelines on specific hearing examiners and the proper procedure for subpoenas, orders and appeals.

According to the records available, the rule was first promulgated on November 25, 1987 with no modifications.

DETERMINATION: It is the Board's determination that this rule should be continued without change, modifications, or repeal.

REASON: This rule seems to be consistent of all hearings and court procedures and the Board feels that it is very important to follow these procedures as outlined in Series 2. The Board does not suggest any modification or repeal and feels that Series 2 is imperative for due process and proper hearing procedures.

**WEST VIRGINIA BOARD OF CHIROPRACTIC
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**SERIES 3 (4CSR3)
CONTESTED CASE HEARING PROCEDURE**

DESCRIPTION: Scope - these procedural rules establish procedures for the adjudication of contested case hearings before the Board. This rule includes hearing procedures of contested cases. It includes procedures on how to introduce evidence, how the hearings shall be conducted, the right to have an attorney present, how to introduce the contested complaint, specific time and notice of the hearing and deadline of the evidence. Also includes transcriptions of testimony and evidence and a selection of the hearing examiner, along with depositions, subpoenas and orders.

According to the records available, the rule was first promulgated on June 10, 1993 with no modifications.

DETERMINATION: It is the Board's determination that this rule should be continued without change, modifications, or repeal.

REASON: The Board feels this is a very important part of due process, and the procedures to be carried out should be specifically outlined in the rules and Series 3 does establish those procedures specifically, the reason for said determination.

**WEST VIRGINIA BOARD OF CHIROPRACTIC
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**SERIES 4 (4CSR4)
FORMATION AND APPROVAL OF PROFESSIONAL LIMITED LIABILITY
COMPANIES**

DESCRIPTION: The legislative rule addresses the procedures for the formation and approval of professional limited liability companies for chiropractic practice. It gives us specific definitions for understanding the rule and outlines the specific procedures for the formation and approval of professional limited liability companies. This rule was in response to §31B-13-1304; duties of licensing boards. The licensing board for each of the professions authorized to perform professional limited liability companies under this article shall propose legislative rules for promulgation in accordance with the provisions of Article 3, Chapter 29A of this code, providing for the implementation of this article and the procedures for the formation and approval of professional limited liability companies for the particular profession under the jurisdiction of such licensing board. The rules of each licensing board shall permit the formation and approval of professional limited liability companies with members from different professions.

According to the records available, the rule was first promulgated on March 29, 1999 with no modifications.

DETERMINATION: It is the Board's determination that this rule should be continued without change, modifications, or repeal.

REASON: We were directed by the Legislature to promulgate this specific rule so that doctors of chiropractic could form professional limited liability companies as outlined by the order, the reason for said determination.

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**SERIES 5 (4CSR5)
DISCIPLINARY AND COMPLAINT PROCEDURES FOR CHIROPRACTORS**

DESCRIPTION: This rule specifies the procedures for the investigation and resolution of complaints against chiropractors and those persons or corporations rendering chiropractic services. This rule applies to all chiropractors and persons or corporations providing chiropractic services. The rule provides definitions specific for an applicant and clarity to the rule by defining specific entities, such as a Board means the West Virginia Chiropractic Board. It includes causes for denial, probation, limitation, disciplinary, suspension or revocation of license. The Board may deny any application for license, place a chiropractor on probation, limit or restrict the same, suspend a license or revoke any license issued by the Board, upon satisfactory proof that a licensee 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 West Virginia Code §30-16-11. It includes procedural direction including deposition and complaints and specifically outlines a step by step procedure regarding fulfilling disciplinary and complaint procedures for chiropractors, as well as allowing for appeals.

According to the records available, the rule was first promulgated on January 1, 2001 with no modifications.

DETERMINATION: It is the Board's determination that this rule should be continued without change, modifications, or repeal.

REASON: The reason for said determination is that this rule specifically outlines for the Board the proper hearing procedures allowing due process and proper appeal. The guidelines will allow the Board to ensure that they are following the specific procedures required by law.

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**SERIES 6 (4CSR6)
FEES PERTAINING TO THE PRACTICE OF CHIROPRACTIC**

DESCRIPTION: This rule provides for the fees that shall apply for the practice of chiropractic in the State of West Virginia. This specific series was effective July 1, 2014. Its primary purpose is to place all fees in an organized separate series so that all doctors could specifically review licensing renewal fees and deadlines along with other fees for examinations, etc.

According to the records available, the rule was first promulgated on July 1, 2014 with no modifications.

DETERMINATION: It is the Board's determination that this rule should be continued without change, modifications, or repeal.

REASON: The reason for this determination is to resolve any questions that a doctor may have regarding renewing his/her license or any other specific fees.