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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

2002 DEC 17 A 9 58

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December 16, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Alberta Slack
Nursing Home Administrators Licensing Board
5303 Kensington Drive
Cross Lanes, WV 25313

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Nursing Home Administrators, 21CSR1**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Nursing Home Administrators Licensing Board

Subject: Nursing Home Administrators, 21CSR1

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PERTINENT DATES

Filed for public comment: February 20, 2002

Public comment period ended: March 22, 2002

Filed following public comment period: May 16, 2002

Filed LRMRC: May 16, 2002

Filed as emergency: February 20, 2002

Fiscal Impact: \$26,100 revenue increase

ABSTRACT

The proposed rule amends a current legislative rule by increasing the following fees:

	Current Fee	Proposed Fee
Administrator in Training Application	\$400	\$600
Issuance of a License	\$400	\$600
Renewal of a License	\$200	\$300
Emergency Permit	\$200	\$300
Temporary Permit	\$200	\$300
Reciprocity Application	\$400	\$600

AUTHORITY

Statutory authority: W.Va. Code, §30-25-7, which provides, in part, as follows:

(a) The board shall:

...(3) Promulgate reasonable legislative rules in accordance with and subject to the provisions of article three, chapter twenty-nine-a of this code, for the proper performance of its duties and shall establish fees for examinations, permits, licenses and renewals sufficient to cover the costs of administration of this article...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes. As the agency stated in the attachment to its fiscal note, on February 20, 2002, the Board had an account balance of 12 cents. It hoped to generate enough revenues to make it through this fiscal year, but needs additional funds to remain fiscally sound in future fiscal years.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.