



**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

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August 16, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Alberta Slack  
Nursing Home Administrators Licensing Board  
232 Capitol Street  
Charleston, WV 25301

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 Recommends that the rule be withdrawn; a statement of  
reasons for such recommendation is attached. \_\_\_\_\_

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: June 8, 1999  
Public comment period ended: July 8, 1999  
Filed following public comment period: July 20, 1999  
Filed LRMRC: July 20, 1999  
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 3 relates to examinations. It has been amended to provide that the cost of the national examination for licensure is not included in the original application fee and that applicants are responsible for paying all testing fees directly to the testing agency. Language has been deleted requiring that an applicant be a citizen of the United States.

Subdivision 3.2(f) relating to the required course of study has been completely rewritten. Substantively, the subdivision remains the same, other than a prohibition against an applicant satisfying his or her 1000 hour administrative work experience requirement by working on an emergency permit or participating in an administrator-in-training program.

Section 4 relates to education, training and experience. Language has been deleted requiring the Board to compile a list of all courses of study approved by the Board. Language has been added to the continuing education requirement specifying that the hours be obtained through programs approved by the Board or NAB's National Continuing Education Review Service.

New language would allow a licensee, who is seeking continuing education hours for a college course in health care administration, to submit to the Board a syllabus of the completed course and a copy of the transcript. It allows the licensee ten continuing education hours for each college course hour approved by the Board. The fee for the administrator-in-training permit is increased from \$200 to \$400. Language has been added providing that the fees for temporary permits and emergency permits are nonrefundable.

Section 6 relating to suspension or revocation, hearing and judicial review has been amended to require an applicant whose application for a license or a renewal license has been denied to request a hearing within 30 days after receiving the order.

Section 7 relating to reciprocity has been amended to provide that a nursing home administrator licensed in this state, who is seeking reciprocity in another state and requiring board certification of licensure, shall pay a fee of \$100 for the verification.

Section 8 relates to restoration. It has been amended to provide for a late charge for reinstatement of a license which has lapsed. The reinstatement fees range from \$100 to \$400 and are in addition to the licensure renewal fee.

Section 9 relating to refunds has been amended to reflect an earlier amendment providing emergency and temporary permit fees are not refundable.

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#### AUTHORITY

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

#### **§30-25-7.**

(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...

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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.

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

The Committee will have to determine if the increase in fees is reasonable.

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

Yes. The proposed rule should be reorganized in a more logical manner to make it more understandable.

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 PROVISION OF THE CODE?

No. The proposed rule was filed without a statement of circumstances as required by the statute.

VIII. OTHER.

Counsel has technical modifications to suggest.