



FILED

Nov 16 6 49 AM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4840
(304) 347-4919 FAX

email: tanders@mail.wvnet.edu

Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant

November 12, 2000

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

TO: Ken Hechler, Secretary of State, State Register

TO: Donna Quesenberry
Insurance Commissioner
Capitol Complex
Box 50540

FROM: Legislative Rule-Making Review Committee

Proposed Rule: AIDS Regulations, 114CSR27

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

FILED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Oct 31 9 26 AM '00

Agency: Insurance Commissioner
Subject: Aids Regulation, 114 CSR 27
Date: October 25, 2000
Counsel: Rita A. Pauley

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

PERTINENT DATES

Filed for public comment:	July 21, 2000
Public comment period ended:	August 21, 2000
Filed following public comment period:	September 1, 2000
Filed LRMRC:	September 1, 2000
Filed as emergency:	N/A
Fiscal Impact:	None

ABSTRACT

This rule regulates the use of HIV and AIDS testing by the insurance industry. This rule establishes standards for AIDS related underwriting health and lifestyle questions and AIDS testing in connection with applications for life or health insurance policies.

The proposed rule amends a current legislative rule. The only substantive amendment is to allow the use of urine test specimens as an HIV testing medium. The current rule allows blood and oral specimens to be used for testing. Urine tests have now been approved by the FDA. They are highly accurate and less invasive than blood or oral tests.

AUTHORITY

Statutory authority: W.Va. Code, §33-2-10, which provides, in part, as follows:

The commissioner is authorized to promulgate and adopt such rules and regulations relating to insurance as are necessary to discharge his duties and exercise his powers and to effectuate the provisions of this chapter and to protect and safeguard the interests of policyholders and the public of this state.

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?

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 PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has suggested technical modifications.