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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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April 17, 2000

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

TO: Ken Hechler, Secretary of State, State Register

TO: Nancy R. Wilson
Licensed Practical Nurses, WV State Board of Examiners for
101 Dee Drive
Charleston, WV 25311

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Policies Regulating Licensure of the Licensed Practical Nurse,10CSR2**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached

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ANALYSIS OF PROPOSED LEGISLATIVE RULES APR 7 9 45 AM '00

Agency: West Virginia State Board of Examiners, Licensed Practical Nurses
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Subject: Policies Regulating Licensure of the Licensed Practical Nurse, 10CSR2

PERTINENT DATES

Filed for public comment: November 29, 1999
Public comment period ended: January 7, 2000
Filed following public comment period: March 21, 2000
Filed LRMRC: March 21, 2000
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 4 relates to licensure by examination. A new subsection 4.2 has been added which provides that each applicant for licensure by examination is subject to a criminal history records check and is required to furnish a full set of fingerprints for that purpose.

Section 5 relates to notification of examination results. A new subsection 5.3 has been added which requires the Board, if authorized by the candidate, to notify the candidate's school of practical nursing of the candidate's examination results.

Section 6 relates to licensure by endorsement. A new subsection 7.2 has been added which provides that each applicant for licensure by endorsement is subject to a criminal history records check and is required to furnish a full set of fingerprints for that purpose.

Section 9 relates to annual renewal of license. Currently the rule requires an annual statement from the renewal applicant that he or she meets continuing competence requirements. This section has been amended to require the statement "in even-numbered years".

Section 13 relates to investigations. It has been amended to allow the Board to require a criminal history records check when conducting an investigation and to require the licensee to furnish a full set of fingerprints for that purpose.

AUTHORITY

Statutory authority: W.Va. Code, §30-7A-5, which provides, in part, as follows:

...The board is authorized to adopt and, from time to time, to revise such rules and regulations not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions hereof...

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. However, in Counsel's opinion, Section 13 on investigations needs to be expanded upon, a new section needs to be added containing the Board's complaint procedures or a separate rule needs to be proposed in order to comply with Enrolled House Bill 4062. The Board has procedures; however, the statute requires a procedure be set forth in a Legislative rule.

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 PROVISIONS OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modification to suggest.