



FILED

APR 19 9 10 AM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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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 Dec Drive
Charleston, WV 25311
FROM: Legislative Rule-Making Review Committee

Proposed Rule. **Continuing Competence, 10CSR6**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

 X

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia State Board of Examiners for Licensed Practical Nurses
Subject: Continuing Competence, 10CSR6

DAG
APR 7 9 42 AM '00
FILED
OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

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 3 relates to continuing competence. Paragraph 3.1.3.3 which exempted a licensee, residing and licensed in another state which also requires mandatory continuing education, from continuing competence requirements has been deleted.

Subdivision 3.1.e provides for the issuance of a limited license where the person is ineligible for immediate reinstatement of a license on non-practicing or lapsed status. The rule currently provides a licensee who does not meet the requirements for a limited license within the 90-day licensing period is required to pass the national licensure examination for practical nurses. The proposed rule would give the licensee the option of meeting the continuing competence requirements set forth in the rule.

Subsection 3.2 relates to the audit of licensees. It has been amended to permit the Board to institute disciplinary proceeding against a licensee who fails to submit required audit information.

Section 4 relates to continuing education providers. Subdivision 4.2.7 which required a provider to give each

participant a grade indicating satisfactory completion of each continuing education activity has been deleted.

Subdivision 4.2.g has been amended to require the provider to maintain a record of individuals who attended a continuing education offering for 4 years as opposed to the current 3 years.

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.

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.