



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

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November 17, 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: Julie Parke  
Massage Therapy Licensure Board  
200 Davis St., Suite 1  
Princeton, WV 24740

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **General Provisions, 194CSR1**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Massage Therapy Licensure Board

Subject: General Provisions, 194CSR1

PERTINENT DATES

Filed for public comment: June 25, 2002  
Public comment period ended: July 25, 2002  
Filed following public comment period: July 26, 2002  
Filed LRMRC: July 26, 2002  
Filed as emergency:

Fiscal Impact: \$4,000 revenue increase for the first year

2002 OCT 15 A 10:51  
FILED  
SECRETARY OF STATE

ABSTRACT

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

Section 2 defines terms. It has been amended to remove the definition of the term "resort spa" and to provide for compensation of board members in accordance with W.Va. Code §30-1-11.

Section 3 relates to requirements for licensure. It has been amended to specify that an applicant's training use a current Board approved curriculum. It has also been amended to require a licensee to obtain a duplicate license to be displayed at his or her secondary place of employment.

Section 4 relates to duties of the Board; authorization to propose rules and fees. The current rule requires a license to be renewed every two years with a fee to be received by April 30 of the renewal year. The proposed rule requires the fee to be received by June 30 of the renewal year. It also provides that licenses are to be renewed two years from the date they were issued. The roster fee has been increased from \$25 to \$50.

AUTHORITY

Statutory authority: W.Va. Code, §30-37-6, which provides as follows:

The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code as are necessary to implement the provisions of this article, which shall include provisions regarding:

(a) Licensure and continuing education requirements, standards of practice, professional ethics, disciplinary actions, and other issues of concern;

(b) Personal cleanliness of massage therapists and the sanitary conditions of towels, linens, creams, lotions and other materials, facilities, and equipment used in the practice of massage therapy; and

(c) All fees for licensure, renewal of licensure, and all other related matters.

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

The proposed rule is confusing in that it provides for the renewal of licenses two years from the date the license is issued but does not require the renewal fee to be paid at the time of renewal.

Counsel has technical modifications to suggest.