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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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February 11, 2001

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

TO: Ken Hechler, Secretary of State, State Register

TO: Ronald D. Walton
Medicine, WV Board of
101 Dee Drive
Charleston, WV 25311

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Licensing, Disciplinary and Complaint Procedures: Physicians, Podiatrists, 11CSR1A**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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FEB 5 10 57 AM '01

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Board of Medicine

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Subject: Licensure, Disciplinary and Complaint Procedures:
Physicians, Podiatrists, 11CSR1A

Date: February 5, 2001

Counsel: Rita A. Pauley

PERTINENT DATES

Filed for public comment: June 28, 2000
Public comment period ended: July 28, 2000
Filed following public comment period: July 31, 2000
Filed LRMRC: July 31, 2000
Filed as emergency: N/A

Fiscal Impact: None

ABSTRACT

This current legislative rule was refiled by the Board in accordance with the requirements of House Bill No. 4062 which required all Chapter 30 agencies and boards to file legislative rules regarding the procedures for investigation and resolution of all complaints and hearing procedures. During the 2nd Extraordinary Session of 2000, House Bill No. 207 corrected the rule making provisions of House Bill No. 4062 and required all rules previously ordered to be filed as legislative rules to be refiled as procedural rules.

This current legislative rule contains the application requirements and qualifications for medical doctors and podiatrists to practice medicine and podiatry and be licensed in the State of West Virginia. The rule covers license renewals as well as

disciplinary action which may be taken upon a license. Disciplinary action can be taken for a number of reasons which are fully set forth in the body of the rule.

The board has a procedural rule dealing with appeal issues and how hearings will be conducted. That rule is referenced under the appeal section of this rule. Section 14 of this rule gives the disposition of specific reports that must be filed as well as sets out a detailed complaint process. All of section 14 shall be removed and put with the current existing procedural rule on hearings and appeals which is contained in 11CSR3.

AUTHORITY

Statutory authority: W.Va. Code, §30-3-7(a)(1), which provides, in part, as follows:

(a) The board, in accordance with the provisions of this article, shall administer and supervise examinations and determine qualification of applicants for licenses to practice and surgery and to practice podiatry, shall issued licenses to qualified applicants and shall regulate the professional conduct and discipline of such individuals. In carrying out its functions, the board may:

(1) Adopt such regulations as are necessary to carry out the purposes of this article:

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.