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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Building 1, 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, Cochair
Delegate Virginia Mahan, Cochair
Debra A. Graham, Counsel

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

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: **Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistant, 11CSR1B**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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

FEB 5 10 57 AM '01

Agency: West Virginia Board of Medicine

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Subject: Licensure, Disciplinary and Complaint Procedures,
Continuing Education, Physician Assistants, 11CSR1B

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 procedure 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. The changes to this rule will merely be a reference in section 2.11 to refer to the proper procedural rule for complaint, disciplinary and investigation of process for physician assistant.

This rule contains the requirements to be licensed as a physician assistant in West Virginia. It provides detailed

information about the proper supervision of physician assistants by the responsible physician, it also includes continuing education requirements. It contains an extensive list of prohibited conduct and behavior, which if engaged in would result in disciplinary action. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 is a combination of substantive provisions regarding the duties of the board, physician assistants, and physicians in addition to definitions. Counsel has suggested that the rule be completely revised and broken into appropriate sections based on subject matter.

AUTHORITY

Statutory authority: W.Va. Code, §30-3-16(b), which provides, in part, as follows:

(b) The board shall promulgate rules pursuant to the provisions of article three, chapter twenty-nine-a of this code governing the extent to which physician assistants may function 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?

Yes, the rule needs substantial revision and reorganization. The revisions include changing the name of the rule since it no longer contains complaint procedures

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 minor technical modifications.