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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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September 15, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

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

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Fees for Services Rendered by the Board of Medicine, 11CSR4**

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 Recommends that the rule be withdrawn; a statement of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

The Committee approved amendments to Subsections 2.1, 2.6 and 2.9 of the proposed rule which would lower the fees for medical and podiatric licensure and biennial registration for medical or podiatric licensees by \$50 to \$250. It was the Committee's opinion that a \$50 increase in fees was sufficient.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Board of Medicine

Subject: Fees for Services Rendered by the Board of Medicine,
11CSR4

PERTINENT DATES

Filed for public comment: May 14, 1999
Public comment period ended: June 30, 1999
Filed following public comment period: July 21, 1999
Filed LRMRC: July 21, 1999
Filed as emergency:

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Fiscal Impact: Fiscal note does not reflect revenue to be received from increase in fees.

ABSTRACT

The proposed rule amends a current legislative rule. Section 2 of the proposed rule has been amended to: delete the \$600 fee for the medical examination which the Board no longer administers; raise the fee for a medical license or application from \$200 to \$300; raise the active medical and podiatry biennial registration fee from \$200 to \$300; raise the maximum fee for the podiatric examination from \$500 to \$650 and raises the podiatric licensure application fee from \$200 to \$300.

AUTHORITY

Statutory authority: W.Va. Code, §§30-3-7 and 30-1-6 which provide, in part, as follows:

§30-3-7.

(a) The board, in accordance with the provisions of this article, shall administer and supervise examinations and determine

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qualifications of applicants for licenses to practice medicine and surgery and to practice podiatry, shall issue 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...

§30-1-6.

...(c) Boards may set by rule fees relating to the licensing or registering of individuals, which shall be sufficient to enable the boards to carry out effectively their responsibilities of licensure or registration and discipline of individuals subject to their authority: *Provided*, That when any board proposes to promulgate a rule regarding fees for licensing or registration, that board shall notify its membership of the proposed rule by mailing a copy of the proposed rule to the membership at the time that the proposed rule is filed with the secretary of state for publication in the state register in accordance with section five, article three, chapter twenty-nine-a of this code...

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?

The Board received numerous comments from physicians protesting the proposed increase in fees. The Board may not have received as many complaints had it included its justification for the increase with its notice. Based upon the fact that the Board's disbursements are exceeding its receipts, there has not been an increase in renewal fees for more than 10 years, and the fees are not out of line with those in surrounding states, counsel feels that the increase in fees are reasonable. However, the ultimate determination of reasonableness rests with the Committee.

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, although the fiscal note failed to reflect the increase in revenue which the Board will receive from the increase in fees.

VIII. OTHER.