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

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STATE OF WEST VIRGINIA  
SECRETARY OF STATE  
BY \_\_\_\_\_

OCT 24 2002

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*Senator Mike Ross, Cochair  
Delegate Virginia Mahan, Cochair  
Debra A. Graham, Counsel*

October 23, 2002

*Joseph A. Altizer, Associate Counsel  
Connie A. Bowling, Associate Counsel  
Teri Anderson, Administrative Assistant*

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

TO: Joe Manchin, Secretary of State, State Register

TO: William T. Douglass  
Pharmacy, WV Board of  
232 Capitol Street  
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Board of Pharmacy Fees for Pharmacist Recovery Networks, 15CSR11**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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

**Board of Pharmacy**

Board of Pharmacy Fees for Pharmacist Recovery Networks, 15CSR11

The fees contained in the proposed rule are also contained in the Board's rule, Board of Pharmacy Rules for Pharmacist Recovery Networks, 15CSR10.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Board of Pharmacy

Subject: Board of Pharmacy Fees for Pharmacist Recovery Networks,  
15CSR11

PERTINENT DATES

Filed for public comment: May 7, 2002  
Public comment period ended: June 7, 2002  
Filed following public comment period: July 26, 2002  
Filed LRMRC: July 26, 2002  
Filed as emergency: May 7, 2002  
  
Fiscal Impact: \$50,000 increase

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ABSTRACT

The proposed rule is new. It authorizes the Board to assess additional fees on each licensure renewal application with revenue generated by the assessment dedicated to the operation of the Pharmacist Recovery Network. The additional fees for a pharmacist are \$20 with each biennial renewal; interns \$5, with each annual renewal; and pharmacy technicians, \$10 with each biennial renewal.

AUTHORITY

Statutory authority: W.Va. Code, §30-5-7c, which provides, in part, as follows:

(a) The board may, under legislative rules adopted by the board in accordance with article three, chapter twenty-nine-a of this code, enter into agreements with organizations to form pharmacist recovery networks...

... (d) Prior to entering into any agreement with any organization to form a pharmacist recovery network, the board shall

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propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code regarding the operation of any pharmacist recovery network, with provisions for:

- (1) Definitions of impairment;
- (2) Guidelines for program elements;
- (3) Procedures for receipt and use of information of suspected impairment;
- (4) Procedures for intervention and referral;
- (5) Arrangements for mandatory monitoring, treatment, rehabilitation, post-treatment support and performance;
- (6) Reports of individual cases to the board;
- (7) Periodic reporting of statistical information;
- (8) Assurance of confidentiality of nonpublic information and of the peer review process; and
- (9) Assessment of a fee to be added to each licensure renewal application fee payable to the board and dedication of any revenue generated by the assessment for the operation of pharmacist recovery networks developed under this section.

#### 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?

No. The fees contained in this rule are also contained in the Board's rule, Board of Pharmacy Rules for Pharmacist Recovery Networks, 15CSR10. Therefore, counsel recommends the proposed rule be withdrawn.

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