



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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October 18, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Karen J. Stewart
WV Board of Respiratory Care
106 Dee Drive
Charleston, WV 25311

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Continuing Education Requirements, 30CSR3**

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Board of Respiratory Care

Subject: Continuing Education Requirements, 30CSR3

PERTINENT DATES

Filed for public comment: June 24, 1999
Public comment period ended: July 30, 1999
Filed following public comment period: August 4, 1999
Filed LRMRC: August 4, 1999
Filed as emergency:

Fiscal Impact: None

OFFICE OF LEGISLATIVE SERVICES
SEP 21 4 02 PM '99

ABSTRACT

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

Section 2 relates to definitions. The definition for the term "academic course" has been modified slightly.

Section 3 relates to accrual of continuing education units.

Subsection 3.2 relates to the time frame for submitting continuing education units. Counsel believes that the Board is attempting to change the reporting period for continuing education units by changing the accrual period; however, the language is very unclear and needs to be rewritten.

Subsection 3.5 is new and states that continuing education units are to be prorated for new licensees.

Subsection 3.6 has been amended to provide that the Board is to notify a licensee that he or she failed to meet the continuing education requirements within 20 days of receipt of the continuing education unit forms.

Section 4 relates to the method of obtaining continuing education units.

Subsection 4.8 is new and allows the Board to approve continuing education units for the authorship of continuing education material used in conducting continuing education program offerings.

Section 5 relates to procedures for accreditation for sponsors and approval for continuing education activities. It allows the Board to pre-approve a provider of continuing education and sets forth requirements for records, etc. which must be maintained by the pre-approved provider.

Section 6 relates to responsibilities and reporting requirements of the license holder. The date by which a licensee must submit records of continuing education units has been changed from March 15, preceding the accrual period, to December 31, after the accrual period.

AUTHORITY

Statutory authority: W.Va. Code, §30-34-5, which provides, in part, as follows:

The board shall:

...(h) Establish rules pursuant to the provisions of chapter twenty-nine-a of this code regarding relicensure and continuing education requirements...

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 technical modifications to suggest.