



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: Wanda Goodwin
Board of Veterinary Medicine
Capitol Complex
Building 12, Room 201

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Standards of Practice, 26CSR4**

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.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

Subject: Standards of Practice, 26CSR4

PERTINENT DATES

Filed for public comment: July 7, 1999
Public comment period ended: August 6, 1999
Filed following public comment period: August 6, 1999
Filed LRMRC: August 6, 1999
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. It has been amended to provide that all veterinary facilities shall be inspected by the Board no sooner than every two years, except when a reinspection is required due to the facility not passing a routine inspection. It requires all veterinary facilities to register annually with the Board and pay an annual permit fee which is not specified. It also provides that the Board may not issue a renewal license to a veterinarian who is an owner or shareholder of a veterinary facility that has not filed the annual facility registration or who has refused to allow an inspection.

It defines the term "secondary outpatient facilities" and specifies that they are to be inspected and meet the requirements of the proposed rule

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AUTHORITY

Statutory authority: W.Va. Code, §30-10-4, which provides, in part, as follows:

The board shall have the power to:

...(i) Promulgate, amend or repeal reasonable rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement the provisions of this article, including rules and regulations establishing standards of professional conduct for the practice of veterinary medicine...

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, although the proposed rule needs to specify the facility registration fee.

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?

No. The proposed rule did not contain a fiscal note, a summary and a statement of circumstances as required by the Code.

VIII. OTHER.

Counsel has technical modifications to suggest.