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WEST VIRGINIA LEGISLATURE

Legislative Rule-Making Review Committee

Senator Mark Maynard, Co-Chair
Delegate Kelli Sobonya, Co-Chair

Debra A. Graham, Chief Counsel
Jared Wyrick, Analyst

November 19, 2015

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

To: Natalie E. Tennant, Secretary of State, State Register

To: Marykaye Jaquet
Human Rights Commission, WV
1321 Plaza East
Room 108A
Charleston, WV 25301-1400

From: Legislative Rule-Making Review Committee

Proposed Rule: Pregnant Workers' Fairness Act, 77CSR10

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 the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____

3. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. X

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 Recommends that the Legislature rule be withdrawn; a statement of reasons for the recommendation is attached.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

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Committee Amendment

Pregnant Workers' Fairness Act, 77CSR10

The Legislative Rule-Making Review Committee moved to amend the Human Rights Commission's proposed rule Pregnant Workers' Fairness Act, 77CSR10, as follows:

On page 2, Subsection 2.4, following the word "miscarriage" and the comma, by striking the words "pregnancy termination,";

On page 2, Subsection 2.4, following the word "depression" and the comma, by striking the word "fertility";

On page 2, Subsection 2.4, following the word "lactation", by changing the period to a colon and inserting the following proviso: "Provided, That an elective abortion shall not be considered a related medical condition.";

On page 2, Subdivision 3.1.2, by striking out all of subdivision 3.1.2 and inserting in lieu thereof the following:

"3.1.2. The employee or job applicant must request the accommodation, and deliver to the employer documentation from the employee/applicant's licensed health care provider that delineates the employee or applicant's limitations and suggesting what accommodation(s) would address those limitations for the purpose of asserting a claim pursuant to the PWFA.";

On page 3, Subdivision 5.1.1, by striking out all of subdivision 5.1.1.

Statement of Reason

The Committee amendment removes "fertility" and "pregnancy termination" as examples of related medical conditions, it provides that elective abortions are not to be considered a related

medical condition, clarifies the written documentation requirement, and removes language applying the rule series to both men and women.