



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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September 17, 2001

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FILED
2001 SEP 19 A 9:20
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

TO: Joe Manchin, Secretary of State, State Register

TO: Helen Lodge
Dietitians, WV Board of Licensed
54 Twin View Lane
Huntington, WV 25704

FROM: Legislative Rule-Making Review Committee

Proposed Rule: Code of Professional Ethics, 31CSR2

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.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

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Board of Licensed Dietitians

Subject: Code of Professional Ethics, 31CSR2

PERTINENT DATES

Filed for public comment: June 25, 2001
Public comment period ended: July 25, 2001
Filed following public comment period: July 27, 2001
Filed LRMRC: July 27, 2001
Filed as emergency:

Fiscal Impact: None

FILED
2001 AUG 10 A 11:29
OFFICE WEST VIRGINIA
SECRETARY OF STATE

ABSTRACT

The proposed rule amends a current legislative rule. The proposed rule adds a section containing definitions relating to the scope of practice.

AUTHORITY

Statutory authority: W.Va. Code, §30-35-4, which provides, in part, as follows:

(a) The board may, in its discretion, perform the following functions and duties, depending on the financial resources available to the board:

(1) Promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to implement and effectuate the

provisions of this article, including, but not limited to, legislative rules establishing the following:

- (A) A code of professional ethics;
- (B) Continuing education requirements and standards;
- (C) Examination, licensure and renewal requirements of duly qualified applicants; and
- (D) Procedures and guidelines for the suspension or revocation of a license...

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 PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.