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Oct 19 9 37 AM '99

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

OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

*State Capitol - Room MB-49*  
*Charleston, West Virginia 25305*  
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*Senator Mike Ross, Co-Chairman*  
*Delegate Mark Hunt, Co-Chairman*  
*Debra A. Graham, Counsel*

*Joseph A. Altizer, Associate Counsel*  
*Rita Pauley, Associate Counsel*  
*Teri Anderson, Administrative Assistant*

October 18, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Jerry Rhodes  
Emergency Medical Services  
1411 Virginia Street, East  
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Fire Department Rapid Response Services, 64CSR44**

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

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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: Beth Marquart  
Health & Human Resources  
Capitol Complex  
Building 3, Room 265

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Fire Department Rapid Response Services, 64CSR44**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Division of Health

**Subject:** Fire Department Rapid Response Services, 64CSR44

PERTINENT DATES

Filed for public comment: June 29, 1999  
Public comment period ended: July 29, 1999  
Filed following public comment period: August 4, 1999  
Filed LRMRC: August 4, 1999  
Filed as emergency: June 29, 1999

Fiscal Impact: \$37,920 increase in cost.

OFFICE OF THE CLERK  
SECRETARY OF STATE

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ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 relates to when licensure is required. It provides that a fire department rapid response service that does not charge a fee for its medical services or transport of patients, shall obtain licensure under the EMS rule, licensure under this rule or an agreement with an EMS agency addressing medical direction, training, quality assurance and liability insurance.

Section 4 relates to applications and inspections. It requires a Fire Department Rapid Response Service to apply to provide either rapid response basic life support or rapid response advanced life support or both. It allows the Commissioner to make inspections of facilities and records.

Section 5 relates to licensure requirements. It allows the Commissioner to determine entitlement to licensure based upon the applicant's compliance with this rule. It specifies requirements

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for personnel and vehicles, medical direction, place of operations, operational policies and procedures, records and reports, insurance, system requirements and availability.

Section 6 relates to licensure requirements based upon point standards. It sets forth certain standards which a Fire Department Rapid Response Service must meet and assigns point values for those standards. An applicant is required to obtain a minimum of 63 points in order to be eligible for licensure.

Section 7 relates to license issuance, renewal, modification, denial, suspension and revocation. It requires the Commissioner to issue a license at no cost after the applicant submits a completed application and complies with the rule. It sets forth information which must be contained on the license. It requires a Fire Department Rapid Response Service to apply for renewal within 90 days of the renewal date and provides for modification of a license. It also provides that the Commissioner shall deny, revoke or suspend a license for fraud, or for failure to obtain or maintain compliance with this rule.

Section 8 relates to licensee conduct. It requires a Fire Department Rapid Response Service to maintain compliance with the rule and display its license. It also prohibits them from advertising or implying the availability of services other than those for which they're licensed.

Section 9 relates to fire department rapid response vehicles and classifies those vehicles as Class A EMS vehicles. It specifies those activities for which the vehicle may be used.

Section 10 relating to administrative due process references the appropriate Division of Health rule.

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#### AUTHORITY

Statutory authority: W.Va. Code, §16-4C-23, which provides, in part, as follows:

...the commissioner shall propose for promulgation a legislative rule regulating fire department rapid response services, pursuant to article three, chapter twenty-nine-a of this code which: (1) Establishes licensure and certification requirements for

fire department rapid response services who do not charge for their services or transport patients...

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. The Commissioner was directed to propose the rules for promulgation by Enrolled House Bill 3040 which passed during the 1999 Legislative Session and went into effect on March 12, 1999.

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.