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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

WEST VIRGINIA
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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: **Cancer Registry, 64CSR68**

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Health

Subject: Cancer Registry, 64CSR68

PERTINENT DATES

Filed for public comment: June 30, 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: \$5,000 increase

OFFICE OF THE CLERK
STATE OF WEST VIRGINIA

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FILED

ABSTRACT

The proposed rule amends a current legislative rule. Throughout the proposed rule, the office within the Division of Health, which collects and maintains information on cancer cases, has been designated the West Virginia Cancer Registry, which then maintains the cancer registry. The following is a synopsis of the substantive amendments.

Section 4 relates to reporting. It requires certain patient-related information to be provided on all reportable cancer cases. It has been amended to specify the manner in which the stage of the disease at diagnosis is determined and to require information on the patient's usual occupation and usual industry of employment. The additional risk factor of alcohol use has also been added. It has also been amended to require that the reports contain sufficient narrative to determine the accuracy of coding and information.

The current rule requires reporting sources to submit the required information to the registry within six months of diagnosis. It has been amended to provide that if a health care facility fails to report in a format prescribed by the Director, authorized West Virginia Cancer Registry Personnel may enter the health care facility, access the information and report it in the appropriate format. If the health care facility is licensed for 50

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beds or more, the Division is to assess the health care facility a service fee for reimbursement of the cost of accessing and reporting the information. The fee is to be based upon the fair market value of the services.

Section 6 relating to distribution of the rule is new. It provides that the Division and health care professional licensing boards and agencies may distribute the rule to any health care facility having a duty under the rule.

Section 7 relating to violations and sanctions is new. It states that a person who fails to comply with the rule is subject to the criminal penalties in W.Va. Code §16-1-18.

AUTHORITY

Statutory authority: W.Va. Code, §16-5A-2a, which provides, in part, as follows:

...(e) **Rule making.** -- The director shall promulgate rules related to: (1) The content and design of all forms and reports required by this section; (2) the procedures for disclosure of information gathered by the cancer registry by monitoring and evaluating health data and from completed risk assessments; and (3) any other matter necessary to the administration of this section.

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?

Yes. The proposed rule provides for the distribution of the rule by the Division of Health and others. W.Va. Code §20A-2-8 prohibits distribution of rules by agencies except under certain specific conditions.

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.