

Form #1

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OFFICE OF THE ATTORNEY GENERAL
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William F. Vieweg, Commissioner

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Cecil H. Underwood
Governor

William F. Vieweg
Commissioner



West Virginia Bureau of Employment Programs

- Job Service/Job Training Programs • Labor Market Information
 - Unemployment Compensation • Workers' Compensation
- an equal opportunity/affirmative action employer*

July 28, 1999

The Honorable Ken Hechler
Secretary of State
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Re: Proposed Exempt Legislative Rule
Title 85, Series 27
"Qualified Rehabilitation Professional"

Dear Mr. Secretary:

Please consider this letter to be my written approval for the filing of the above-noted proposed Rule.

Pursuant to Enrolled Committee Substitute for House Bill 4030, Regular Session, 1994, the Department of Commerce, Labor and Environmental Resources was abolished. Pursuant to that same bill and to Executive Order No. 5-94 of the Governor, the Commissioner of the Bureau of Employment Programs is empowered to promulgate rules without the consent or approval of a department secretary.

Thank you very much for your assistance in this matter.

Very truly yours,

William F. Vieweg
Commissioner

WFV/RBS/nwd

Enclosure

SUMMARY OF PROPOSED EXEMPT LEGISLATIVE RULE STATEMENT OF CIRCUMSTANCES

The proposed changes to the “Qualified Rehabilitation” Rule involve the qualifications of the individuals which the Workers’ Compensation Division allows to provide vocational rehabilitation services to workers’ compensation claimants.

Qualified rehabilitation professionals (QRPs) are required, under the proposal, to submit evidence of three years in a supervised rehabilitation counseling environment prior to being designated as a QRP. Rule changes clarify activities considered to be acceptable employment experience for purposes of becoming a QRP. QRPs are required to make available to the Workers’ Compensation Division documentation showing the completion of twenty hours of acceptable continuing education.

In addition to the above, criteria for provisional qualified rehabilitation professionals working under the supervision of QRPs are provided in the Rule.

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FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 85, Series 27, "Qualified Rehabilitation Professional"

Type of Rule: X Legislative Exempt Interpretive Procedural

Agency Bureau of Employment Programs

Address 112 California Avenue

Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	Unknown	Unknown	\$0	Unknown	Unknown
PERSONAL SERVICES	Unknown	Unknown	0	Unknown	Unknown
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

There are no estimates for the current year due to the proposed changes taking effect 7/1/99. Because this rule further defines credentials, we believe that any additional costs in reviewing those credentials and maintaining records are negligible. However, additional costs involved in providing services to an increasing number of workers may be offset by the quality and intensity of the services provided by the better qualified professionals.

3. Objectives of this rule:

The purpose of this rule is to establish the minimum credentials to be met for an individual to be recognized as qualified to provide rehabilitation services for the Workers' Compensation Division, and to be reimbursed by the Division for such services and who these services are provided to.

Rule Title: Title 85, Series 27, "Qualified Rehabilitation Professional"

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

This rule will lead to the development of standards to ensure that rehabilitation services provided to workers are provided in a professional manner by individuals qualified to provide such services. We expect such standards to lead to more efficient and effective rehabilitation services to workers, which in turn could result in a savings in rehabilitation costs for the Division. However, providing the services to a growing number of workers may increase the cost due to increasing the amount of services provided.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

We expect the development of rehabilitation standards will lead to more efficient and effective rehabilitation services, which in turn could result in a quicker return to the workforce by workers.

C. Economic Impact on Citizens/Public at Large.

The quicker return of the worker to the workforce will result in resumption of his or her full salary and benefits and less government support.

Date: _____

July 28, 1999

Signature of Agency Head or Authorized Representative

William F. Vieweg

William F. Vieweg

Commissioner, Bureau of Employment Programs

TITLE 85
LEGISLATIVE RULE
WORKERS' COMPENSATION DIVISION

SERIES 27
QUALIFIED REHABILITATION PROVIDER-PROFESSIONAL

FILED
JUL 23 2 03 PM '99
OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES
SECRETARY OF STATE

§85-27-1. General.

1.1 Scope. -- This rule establishes the minimum credentials to be met for an individual to be recognized as qualified to provide vocational rehabilitation services for the Workers' Compensation Division, and to be reimbursed by the Division for such services.

1.2. Authority. -- W.Va. Code §§21A-2-6(1), -6(2) & -6(14); 21A-2-19; 21A-3-7(b) & -7(c), 23-1-1; and 23-1-15. Pursuant to W.Va. Code, §21A-3-7(c), rules adopted by the compensation programs performance council and the commissioner are not subject to legislative approval as would otherwise be required under W.Va. Code, §29A-3-1 et seq. Public notice requirements of that chapter and article, however, must be followed. Pursuant to Enrolled Committee Substitute for House Bill 4030, Regular Session, 1994, the Department of Commerce, Labor and Environmental Resources was abolished. Pursuant to that same bill and to Executive Order No. 5-94 by the Governor, the Commissioner of the Bureau of Employment Programs is empowered to promulgate rules and regulations without the consent or approval of a departmental secretary.

1.3. Filing Date. -- ~~May 20, 1997~~

1.4. Effective Date. -- ~~June 20, 1997~~

§85-27-2. Purpose of Rule.

The purpose of this rule is to implement the provisions of W.Va. Code, §23-4-3, and §23-4-3b, and ~~§23-4-9~~ which relate to the development of standards for rehabilitation services. ~~W.Va. Code §23-4-9(a) provides that "It is a goal of the workers' compensation program to assist workers to return to suitable gainful employment after an injury; -- it is the shared responsibility of the employer, the employee, the physician and the commissioner to cooperate in the development of a rehabilitation process designed to promote reemployment for the injured employee."~~ This rule is intended to ensure that vocational rehabilitation services provided to injured workers are provided in a professional manner by individuals qualified by education and experience to provide such services, so that the highest quality of rehabilitation services may be afforded to injured workers. This rule is applicable to any provider of vocational rehabilitation services that extends such services to injured employees-workers and is reimbursed for such services by the Workers' Compensation Division.

§85-27-3. Definitions.

As used in this legislative rule, the following terms have the stated meanings unless the context of a specific use clearly indicates another meaning is intended.

3.1. "Commissioner" means the Commissioner of the Bureau of Employment Programs.

3.2. "Division" shall refer to the Workers Compensation Division of the Bureau of Employment Programs.

3.3. "HCAP" means the Health Care Advisory Panel.

3.4. "QRP" stands for "qualified rehabilitation professional."

3.5. "Qualified Rehabilitation Professional" means an individual that meets the criteria set forth in this rule to provide vocational rehabilitation services to claimants, workers and be reimbursed for such services by the Division.

3.6. "Supervised experience" means work in the field of vocational rehabilitation services in which the individual receives at least one (1) hour of formal interaction, instruction, case direction and case review with a supervising professional for every twenty (20) hours worked. The Division may request documentation of such supervision.

§85-27-4. Minimum Educational Requirements.

4.1. Except as otherwise provided in this section, all individuals seeking recognition as a qualified rehabilitation professional (QRP) must submit evidence of graduation from an accredited college or university with a baccalaureate degree in rehabilitation counseling, nursing or a behavioral sciences field, such as psychology, guidance and counseling, or special education.

4.2. The following may be substituted for the educational requirement set forth above:

4.2.1. A baccalaureate degree in any academic field from an accredited college or university AND and a license to practice as a registered professional nurse in the State of West Virginia; OR or

4.2.2. A baccalaureate degree in any academic field from an accredited college or university AND and two years of full-time or equivalent part time paid employment as a teacher of the disabled, or in a client-serving capacity in a human service agency, or providing direct services to individuals with disabilities; OR or

4.2.3. Completion of an associate degree or diploma program in nursing from an accredited college or university or a diploma nursing program AND and a license to practice as a registered professional nurse in the State of West Virginia AND and professional certification from a national nursing or rehabilitation certifying organization as a practitioner in the area of rehabilitation nursing or vocational rehabilitation services.

§85-27-5. Minimum Experience Requirements

5.1. ~~Except as otherwise provided in this section, a~~ All individuals seeking recognition as a QRP must submit evidence of three years of one year of full-time or equivalent part time paid supervised experience in rehabilitation counseling, two of which must be and two years of full time or equivalent part time paid supervised experience in providing vocational rehabilitation services to the industrially impaired/disabled population. Work experience required for meeting this provision is in addition to the will not include work experience counted toward set forth meeting the minimum educational requirement set forth in section 4 of this rule, the preceding section.

5.2. The supervised experience required by this section must conform to the criteria for acceptable employment experience set forth in §85-27-6 of this rule, below.

5.3. A Masters degree from an accredited college or university in the behavioral sciences or nursing fields may substitute for the training educational requirements outlined in section 4 of this rule and one year of the experience requirement set forth in section 5.1, above. The remaining two years of required experience must be in the field of vocational rehabilitation to the industrially impaired and/or disabled population.

§85-27-6. Acceptable Employment Experience.

6.1. Full-time employment is considered as 35 hours a week.

6.2. Part-time experience is determined by calculating the total number of hours of acceptable experience divided by 35 hours, to result in the number of weeks of credit for acceptable experience.

6.3. Employment verification must provide evidence that 100% of the time counted as acceptable employment experience was spent working as a rehabilitation counselor providing vocational rehabilitation services to persons with impairments and disabilities. At least 50% of the activities must be directly related to counseling services to persons with disabilities.

6.4. Rehabilitation counseling services which count as acceptable employment experience may include, but are not limited to:

- 6.4.1. vocational or personal adjustment or affective (mental health) counseling;
- 6.4.2. developing and monitoring rehabilitation services/care;
- 6.4.3. ~~job placement and/or job development; individual appraisal;~~
- 6.4.4. ~~job analyses; supervision of vocational rehabilitation counselors;~~
- 6.4.5. ~~individual appraisal; forensic rehabilitation;~~
- 6.4.6. ~~supervision of counselors; disability management;~~
- 6.4.7. ~~vocational training; vocational rehabilitation services as set forth in §85-15-3.10.;~~
- 6.4.8. ~~consultation in disability management;~~
- 6.4.9. ~~forensic rehabilitation services.~~

6.5. Employment experience must reflect activity as described in section 6.4.1 ~~through 6.4.6 as above, as well as in and in at least three other areas, such as those developed and defined in section 6.4.7 set forth in sections 6.4.2, through 6.4.9, pursuant to 85-15.3.10.~~ to be considered acceptable.

6.6. Time spent in travel and waiting are not considered rehabilitation counseling services or vocational rehabilitation services.

§85-27-7. Continuing Education.

7.1. Each qualified rehabilitation professional (QRP) is required to ~~present~~ make available and present for examination by the division. documentation of the completion of twenty (20) hours of continuing education per year.

7.2. Documentation of continuing education will be required with the application for the July 1, 1998~~9~~ enrollment period, reflecting continuing education hours completed during the year preceding enrollment.

7.3. The following is a representative list of acceptable subjects:

- 7.3.1 Principles of Counseling or Theories of Counseling or Methods of Counseling;
- 7.3.2. Career Development or Vocational Counseling;
- 7.3.3. Tests and Measures or Vocational Assessment;
- 7.3.4. Medical aspects of disability;
- 7.3.5. Psychosocial aspects of disability;
- 7.3.6. Principles of rehabilitation;
- 7.3.7. Rehabilitation counseling;

- 7.3.8. Community agencies and resources;
- 7.3.9. Group counseling/therapy;
- 7.3.10. Plan development in rehabilitation;
- 7.3.11. Job development and placement;
- 7.3.12. Research and statistics;
- 7.3.13. Theories of personality;
- 7.3.14. Individual differences;
- 7.3.15. Personality measures;
- 7.3.16. Cross cultural counseling;
- 7.3.17. Organizational psychology;
- 7.3.18. Experimental psychology;
- 7.3.19. Social psychology;
- 7.3.20. Educational psychology;
- 7.3.21. Individual intelligence testing;
- 7.3.22. Problems in substance abuse; and
- 7.3.23. Theories/techniques of work adjustment.

7.3.24 Claims Management

§85-27-8. Transition Period.

8.1 Individuals providing rehabilitation services to ~~claimants, workers,~~ employers or the Division at the time of the effective date of this rule who lack sufficient experience as set forth in section 5 of this rule to be designated QRP may continue to provide rehabilitation services as a ~~under provisional QRP, under the supervision of a QRP, under the following conditions provided,~~ as a ~~that for four (4) years following the effective date of this rule, a Pprovisional QRP's must remain~~ under a QRP supervision plan until the requirements outlined in section 5 of this rule are met.

8.2. Individuals who have provided the above-described services through their employers will qualify for the transition period in the same manner as individuals who have provided such services directly to claimants, employers or the Division.