

Form #2

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WEST VIRGINIA
SECRETARY OF STATE

SCANNED

\$4.40

Bob Wise
Governor

Robert J. Smith
Commissioner



West Virginia Bureau of Employment Programs

• Job Service • Labor Market Information
• Unemployment Compensation • Workers Compensation
an equal opportunity/affirmative action employer

July 30, 2002

The Honorable Joe Manchin III
Secretary of State
State Capitol Complex
Building 1, Room W-157
Charleston, West Virginia 25305

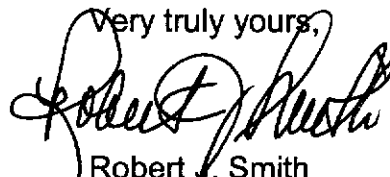
RE: Proposed Rule
Title 85, Series 27
"Qualified Rehabilitation Provider"

Dear Secretary Manchin:

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,

Robert J. Smith
Commissioner

RJS:ld

Enclosure

**SUMMARY OF PROPOSED RULE
STATEMENT OF CIRCUMSTANCES
TITLE 85, SERIES 27
QUALIFIED REHABILITATION PROVIDER**

The changes to 85 C.S.R. 27, "Qualified Rehabilitation Provider," are proposed for the purpose of setting forth the criteria to determine who is qualified to provide vocational rehabilitation to injured workers in the West Virginia Workers' Compensation System.

The proposed changes clearly denote that vocational rehabilitation is the aim of the rule.

The proposed changes expand the types of baccalaureate degrees that qualified rehabilitation providers (QRPs) are required to have to meet minimum educational standards. The changes further clarify the types of experience necessary to substitute for certain educational requirements.

The proposal changes the experience requirement from one to three years and provides for some education substitutes for certain amounts of experience.

The proposed changes require that QRPs complete and maintain records of continuing education. The changes expand the subject matter of continuing education to include professional ethics.

The proposed changes include requirements for certain individuals to become provisional QRPs for a limited time to meet the QRP experience requirement.

The proposed changes provide for a process to protest Division denials of QRP vendor applications.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 85, Series 27: Qualified Rehabilitation Provider

Type of Rule: ☐ 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
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0	0	0	0	0
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:

No additional costs would be associated with the proposed changes to the education, experience, employment and the annual continuing education requirements necessary to be designated as a qualified vocational rehabilitation provider. There is no significant change in personnel and other costs as existing personnel and resources will be used to perform the review of the minimum credentials of providers for compliance with the specific requirements created by the proposed rule.

3. Objectives of this rule:

The purpose of the proposed rule is to further define the specific requirements necessary, both initial and ongoing; in order to be qualified to provide vocational rehabilitation services for the Workers' Compensation Division.

Rule Title: Title 85, Series 27: Qualified Rehabilitation Provider

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

It is expected that the proposed rule will improve the quality and effectiveness of Workers' Compensation rehabilitation services by further defining the specific requirements necessary in order to be designated and remain a qualified vocational rehabilitation provider.

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

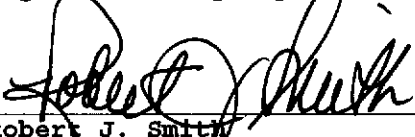
It is expected that the proposed rule will improve and maintain the overall quality of vocational rehabilitation services provided to injured workers.

C. Economic Impact on Citizens/Public at Large.

This proposed rule will not have a direct economic impact on the citizens of West Virginia.

Date: July 29, 2002

Signature of Agency Head or Authorized Representative



Robert J. Smith
Commissioner, Bureau of Employment Programs

TITLE 85
LEGISLATIVE RULE
WORKERS' COMPENSATION DIVISION

FILED

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SERIES 27
QUALIFIED REHABILITATION PROVIDER

WEST VIRGINIA
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 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, 23-4-3b, and 23-4-9 which relate to the development of standards for vocational 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, at any and all levels of the rehabilitation priorities referenced in §85-15-4. 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 Health Care Advisory Panel.~~ "Code of Professional Ethics" refers to the posted code of ethics set forth by the Division for Qualified Rehabilitation Professionals in West Virginia.

3.43. "QRP" stands for "Qualified Rehabilitation Professional.

3.54. "Qualified Rehabilitation Professional" means an individual that meets the criteria set forth in this rule to provide vocational rehabilitation services to ~~claimants~~ injured workers at any and all levels of the rehabilitation priorities referenced in §85-15-4, and be reimbursed for such services by the Division.

3.65. "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 review, and case direction with a supervising professional for every twenty (20) hours worked. The Division may request documentation of such supervision.

§85-27-4. Minimum Education 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 vocational rehabilitation counseling, nursing or a behavioral sciences field, such as psychology, counseling and guidance and counseling; or special education; Child Adolescent and Family Treatment; Mental Health Systems and Applied Psychology; Community Based Programs for People with Disabilities; Crime Control/Related Human Services; Gerontology/Aging and Related Human Services; Human Services Management; Administration and Organizational Communication; Chemical Addictions and Treatment in Human Services; Social Problems; Bachelor of Science in Health Promotion; Bachelor of Science in Rehabilitation and Related Services; Human Development/Family Services; Social Work; Community Human Services or other accredited baccalaureate level human services field.

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

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

4.2.2b. A baccalaureate degree in any academic field from an accredited college or university 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; vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers; OR

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

§85-27-5. Minimum Experience Requirements

5.1. Except as otherwise provided in this section, all individuals seeking recognition as a QRP must submit evidence of ~~one~~ three years of full-time or equivalent part time paid supervised experience in providing vocational rehabilitation counseling services. ~~and two~~ One of the three years of is to be 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 ~~will~~ would not include work experience counted toward meeting the minimum educational requirement set forth in 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, below.

5.3. A doctorate or masters degree from an accredited college or university in the behavioral sciences, social sciences or nursing fields may be substituted for the ~~training~~ educational requirements outlined in section 4 of this rule and ~~one~~ two years of the experience requirement set forth in section 5.1, above. The remaining year 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 per 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 vocational 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~~ serving persons with disabilities.

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

6.4.1a. vocational or personal adjustment or affective (mental health) counseling;

6.4.2b. developing and monitoring vocational rehabilitation services/care;

6.4.3c. job placement and/or job development;

6.4.4d. job analyses;

6.4.5e. individual appraisal;

6.4.6f. supervision of counselors;

6.4.7g. vocational training;

6.4.8h. consultation in disability management;

6.4.9i. forensic rehabilitation services;

6.4.j. return-to-work plan development and implementation;

6.4.k. vocational evaluation;

6.4.l. medical rehabilitation case coordination.

6.5. Employment experience must reflect activity as described in section 6.4.1a above and in at least three other areas, such as those set forth in sections 6.4.2b through 6.4.9i, to be considered acceptable.

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

§85-27-7. Continuing Education.

7.1. Each qualified rehabilitation professional (QRP) is required to present documentation of the completion of twenty (20) hours of continuing education per year commencing from the date the application was approved for QRP status. Continuing

education unit (CEU) requirements may be prorated during the first year following approval of QRP status.

7.2. QRP's will be required as outlined in section 7.1 of this rule to maintain documentation of continuing education will be required with the application for the July 1, 1998 enrollment period, reflecting continuing education hours completed during the year preceding enrollment at their place to employment, to be reviewed by the Division when determined necessary by Division personnel.

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

7.3.1a. Principals of Counseling or Theories of Counseling or Methods of Counseling;

7.3.2b. Career Development or Vocational Counseling;

7.3.3c. Tests and measures or Vocational Assessment;

7.3.4d. Medical aspects of disability;

7.3.5e. Psychosocial aspects of disability;

7.3.6f. Principals of rehabilitation;

7.3.7g. Rehabilitation counseling;

7.3.8h. Community agencies and resources;

7.3.9i. Group counseling/therapy;

7.3.10j. Plan development in rehabilitation;

7.3.11k. Job development and placement;

7.3.12l. Research and statistics;

7.3.13m. Theories of personality;

7.3.14n. Individual differences;

7.3.15o. Personality measures;

7.3.16p. Cross cultural counseling;

7.3.17q. Organizational psychology;

- 7.3.18r. Experimental psychology;
- 7.3.19s. Social psychology;
- 7.3.20t. Educational psychology;
- 7.3.21u. Individual intelligence testing;
- 7.3.22v. Problems in substance abuse; and
- 7.3.23w. Theories/techniques of work adjustment; and
- 7.3.x. Professional ethics.

§85-27-8. Transitional Period.

8.1. Individuals providing vocational rehabilitation services to claimants injured workers, employers or the Division at the time of the effective date of this rule who lack sufficient experience to be designated QRP may continue to provide vocational rehabilitation services under the supervision of a QRP for four (4) years following the effective date of this rule as a provisional QRP. All individuals providing vocational rehabilitation services on a "provisional basis" will be granted five (5) years from the date with which they have applied for QRP status to complete the experience requirements as outlined in section 5.1 of this rule. A provisional QRP shall be granted the right to apply for reinstatement in cases where a medical, familial, or other Division approved leave of absence is taken. Reinstatement shall be considered upon receipt of the provisional employee's request for reinstatement of provisional QRP status. If reinstatement is granted to a provisional QRP, the employment experience completed prior to taking a medical or familial leave of absence shall be applied toward the experience requirements outlined in Section 5.1 of this rule. A provisional QRP must remain under an appropriate QRP supervision plan until the requirements outlined in Section 5.1 of this rule have been 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.~~

§85-27-9. Right to Protest

9.1. Qualified Rehabilitation Professionals will be granted the right to file a protest if their request for QRP certification is denied. Protests to QRP certification will be referred to an Appeals Committee for review and determination. Such a committee will be established by the Division which shall be comprised of members selected by the Commissioner.

§85-27-10. Other Requirements

10.1. Persons granted the designation of QRP are charged with abiding by the Code of Professional Ethics for Qualified Rehabilitation Professionals in West Virginia.