

West Virginia
Secretary of State
Ken Hechler
Administrative Law Division

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FEB 4 9 05 AM '97

Form #1

OFFICE OF THE SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Bureau of Employment Programs, Workers' Compensation Division

TITLE NUMBER: 85

RULE TYPE: *Exempt Legislative; CITE AUTHORITY W.Va. Code §§21A-2-6(1); 21A-2-6(2) & 21A-2-6(14); 21A-2-19; 21A-3-7(b) & 21A-3-7(c), 23-1-1 and 23-1-15

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: N/A

TITLE OF RULE BEING AMENDED: N/A

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 85 C.S.R. 27

TITLE OF RULE BEING PROPOSED: Qualified Rehabilitation Provider

*Per W.Va. Code, §21A-3-7(c), this rule is not subject to legislative review

DATE OF PUBLIC HEARING: February 25, 1997

TIME: 10:00 a.m. - 3:00 p.m.

LOCATION OF PUBLIC HEARING: Charleston Civic Center - Room 202,
Charleston, WV

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH X

THE LAST DAY FOR WRITTEN COMMENTS IS MARCH 15, 1997

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Carol A. Egnatoff, Counsel
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Andrew N. Richardson
Andrew N. Richardson,
Commissioner

Bureau of Employment Programs
Legal Services Division
Post Office Box 3922
Charleston, West Virginia 25339-3922

Cecil H. Underwood
Governor

Andrew N. Richardson
Commissioner



January 30, 1997

The Honorable Ken Hechler
Secretary of State
Capitol Building
Charleston, WV 25305

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

OFFICE OF THE
SECRETARY OF STATE

FEB 4 9 03 AM '97

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Dear Secretary Hechler:

Please consider this letter to be my written approval for the filing of the above noted proposed exempt legislative 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, the Commissioner of the Bureau of Employment Programs is empowered to promulgate rules without the further consent or approval of a departmental secretary.

With much appreciation for your assistance in this matter, I remain

Very truly yours,

Andrew N. Richardson
Andrew N. Richardson
Commissioner

ANR:CAE:pc

Summary of Proposed
Exempt Legislative Rule
"Qualified Rehabilitation Provider"
Title 85, Series 27

This proposed exempt legislative rule provides minimum education and experience standards to be met by persons providing rehabilitation services to injured employees on behalf of the Workers' Compensation Division.

The proposed rule describes minimum educational preparation, along with acceptable substitutions.

The proposed rule establishes minimum requirements for work experience in the field of rehabilitation.

The proposed rule defines employment experience which will be considered in evaluating work experience to meet the work experience requirement.

The proposed rule states minimum requirements for continuing education to be met by rehabilitation providers, and identifies acceptable courses.

The proposed rule provides for a transition period during which persons currently providing rehabilitation services on behalf of the Division who do not meet the criteria for Qualified Rehabilitation Provider (QRP) can continue to provide such services under the supervision of a QRP.

FISCAL NOTE FOR PROPOSED RULES

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

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>	\$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:

Because this rule merely establishes credentials, we believe that any additional costs in reviewing those credentials and maintaining records are negligible.

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.

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

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 injured 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, which in turn could result in a savings in rehabilitation costs for the Division.

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 an injured worker.

C. Economic Impact on Citizens/Public at Large.

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

Date: January 30, 1997

Signature of Agency Head or Authorized Representative

Andrew N. Richardson
Andrew N. Richardson
Commissioner, Bureau of Employment Programs

TITLE 85
LEGISLATIVE RULE
WORKERS' COMPENSATION DIVISION

SERIES 27
QUALIFIED REHABILITATION PROVIDER

FEB 4 9 07 AM '91
OFFICE OF THE
SECRETARY

FILED

§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 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. -- _____

1.4. Effective Date. -- _____

§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 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 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 rehabilitation services that extends such services to injured employees 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 rehabilitation services to claimants and be reimbursed for such services by the Division.

3.6. "Supervised experience" means work in the field of rehabilitation services in which the individual receives at least one (1) hour of formal interaction 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 a license to practice as a registered professional nurse in the State of West Virginia; OR

4.2.2. 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; 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 a license to practice as a registered professional nurse in the State of West Virginia AND professional certification from a national nursing or rehabilitation certifying organization as a practitioner in the area of 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 year of full-time or equivalent part time paid supervised experience in rehabilitation counseling and two years of full time or equivalent part time paid supervised experience in providing rehabilitation services to the industrially

impaired/disabled population. Work experience required for meeting this provision will 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 Masters degree from an accredited college or university in the behavioral sciences or nursing fields may substitute for the training and one year of the experience requirement set forth in section 5.1, above. The remaining year of required experience must be in the field of 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 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;

- 6.4.4. job analyses;
- 6.4.5. individual appraisal;
- 6.4.6. supervision of counselors;
- 6.4.7. vocational training;
- 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 above and in at least three other areas, such as those set forth in sections 6.4.2 through 6.4.9, 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.

7.2. 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.

7.3. The following is a list of acceptable courses:

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.

§85-27-8. Transition Period.

Individuals providing rehabilitation services to the Division at the time of the effective date of this rule who lack sufficient experience to be designated QRP may continue to provide rehabilitation services under the supervision of a QRP for four (4) years following the effective date of this rule.