



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/28/2017 3:33:48 PM

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Health And Human Resources TITLE-SERIES: 69-13

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: 69-13 Development of Methodologies to Examine Needs for Substance Use Disorder
Treatment Facilities within the State

PRIMARY CONTACT

NAME: Brian J Skinner BPH General Counsel

ADDRESS: 350 Capitol Street Room 702
Charleston, WV 25301

EMAIL: brian.j.skinner@wv.gov

PHONE NUMBER: 304-356-4112

CITE STATUTORY AUTHORITY: 16-53-3

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

STATUTORY AUTHORITY

The Secretary of the Department of Health and Human Resources shall propose rules for legislative approval in accordance with W. Va. Code §29A-3-1 et seq. to implement the all of the provisions of W. Va. Code §16-53-3. The Department of Health and Human Resources is empowered to enact each provision of W. Va. Code of State Rules 69-13 by the authority specifically found in W. Va. Code §16-53-3

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/27/2017

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/27/2017

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

NA

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Brief Summary of Rule: This rule establishes procedures for the development of methodologies to examine, as systematically as possible, the relative needs for substance use disorder treatment facilities within the state.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Statement of Circumstances: House Bill 2428, enacted during the 2017 Regular Legislative Session, mandates that the Secretary ensure beds, for purposes of providing substance use disorder treatment services in existing or newly constructed facilities, are made available in locations throughout the state determined to be the highest priority for serving the needs of the citizens by the Bureau for Behavioral Health and Health Facilities.

Additionally, the bill creates the Ryan Brown Addiction Prevention and Recovery Fund to be administered by the Secretary for the purpose of implementing the provisions of the bill. The fund will consist of moneys made available for the purposes of bill from any source, including, but not limited to, all grants, bequests or transfers from any source, any moneys that may be appropriated and designated for those purposes by the Legislature and all interest or other return earned from investment of the fund, gifts, and all other sums available for deposit to the special revenue account from any source, public or private.

The purpose of this rule series is to provide for the development of methodologies to examine, as systematically as possible, what are the relative needs for substance use disorder treatment facilities within the state, for the purpose of making evidence-based and data-informed decisions on how those needs might be most effectively met within available resources.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

This rule establishes procedures for the development of methodologies to examine, as systematically as possible, the relative needs for substance use disorder treatment facilities within the state.

No additional funding is require to support the development of the methodologies.

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

This rule establishes procedures for the development of methodologies to examine, as systematically as possible, the relative needs for substance use disorder treatment facilities within the state.

No additional funding is require to support the development of the methodologies.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2017 Increase/Decrease (use "-")	2018 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0		0
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues	0		0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

NA

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

TITLE 69

LEGISLATIVE RULE
OFFICE OF DRUG CONTROL POLICY
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 13
DEVELOPMENT OF METHODOLOGIES TO EXAMINE NEEDS FOR
SUBSTANCE USE DISORDER TREATMENT FACILITIES WITHIN THE STATE

§64-13-1. General.

1.1. Scope. -- This rule establishes procedures for the development of methodologies to examine, as systematically as possible, the relative needs for substance use disorder treatment facilities within the state.

1.2. Authority. -- W.Va. Code §§ 16-1-4 & 16-53-3.

1.3. Filing Date. --

1.4. Effective Date. --

1.5 Sunset Provision: -- This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.

1.6. Purpose. -- The purpose of this rule series is to provide for the development of methodologies to examine, as systematically as possible, what are the relative needs for substance use disorder treatment facilities within the state, for the purpose of making evidence-based and data-informed decisions on how those needs might be most effectively met within available resources.

1.7. Background. – House Bill 2428, enacted during the 2017 Regular Legislative Session, mandates that the Secretary ensure beds, for purposes of providing substance use disorder treatment services in existing or newly constructed facilities, are made available in locations throughout the state determined to be the highest priority for serving the needs of the citizens by the Bureau for Behavioral Health and Health Facilities.

Additionally, the bill creates the Ryan Brown Addiction Prevention and Recovery Fund to be administered by the Secretary for the purpose of implementing the provisions of the bill. The fund will consist of moneys made available for the purposes of the bill from any source, including, but not limited to, all grants, bequests or transfers from any source, any moneys that may be appropriated and designated for those purposes by the Legislature and all interest or other return earned from investment of the fund, gifts, and all other sums available for deposit to the special revenue account from any source, public or private.

§64-13-2. Definitions.

2.1. "Act" means the provisions of W.Va. Code § 16-53-1 et--seq.

2.2. "Bureau" means the Bureau of Behavioral Health and Health Care Facilities within the Department of Health and Human Resources.

2.3. "Commissioner" means the Commissioner of the Bureau of Behavioral Health and Health Care Facilities or his or her lawful designee.

2.4. "Department" means the West Virginia Department of Health and Human Resources.

2.5. "Needs Assessment" means a systematic, rational process for collecting and analyzing information to describe the needs of a population. The findings from the needs assessment will be utilized to inform the selection criteria and processes for awarding Ryan Brown Addiction Prevention and Recovery Fund grants.

2.6. "ODCP" means the Office of Drug Control Policy authorized by *W.Va. Code § 16-5T-2*.

2.7. "Region" means one of six geographic regions as follows:

2.7.a. Region 1: Hancock, Brooke, Ohio, Marshall, and Wetzel counties.

2.7.b. Region 2: Morgan, Berkeley, Jefferson, Mineral, Hampshire, Grant, Hardy, and Pendleton counties.

2.7.c. Region 3: Wood, Pleasants, Tyler, Ritchie, Wirt, Calhoun, Roane, and Jackson counties.

2.7.d. Region 4: Monongalia, Marion, Preston, Taylor, Doddridge, Harrison, Lewis, Gilmer, Braxton, Barbour, Tucker, Upshur, and Randolph counties.

2.7.e. Region 5: Cabell, Kanawha, Mason, Putnam, Clay, Wayne, Lincoln, Boone, Logan, and Mingo counties.

2.7.f. Region 6: Fayette, Monroe, Raleigh, Summers, Webster, Nicholas, Greenbrier, Pocahontas, McDowell, Mercer, and Wyoming counties.

2.8. "Ryan Brown Fund" means the Ryan Brown Addiction Prevention and Recovery Fund.

2.9. "Secretary" means the Secretary of the Department of Health and Human Resources or his or her lawful designee.

2.10. "Strategic plan" means the strategic plan intended to reduce the prevalence of drug and alcohol abuse and smoking by at least 10 percent to be developed by the Office of Drug Control Policy pursuant to *W.Va. Code § 16-5T-2(c)(1)*.

§64-13-3. Needs Assessment.

3.1. The Bureau will establish a mechanism through which a needs assessment is developed and administered for the purpose of informing the selection criteria and processes for awarding Ryan Brown Fund grants.

3.2. The Bureau will implement data-gathering strategies for achieving estimates of need and demand by region, if applicable and may utilize:

3.2.a. Direct measures (i.e., population surveys employing probability sampling), including but not limited to:

3.2.a.1. Persons in short-term treatment;

3.2.a.2. Persons in long-term treatment;

3.2.a.3. Persons in recovery residences;

3.2.a.4. Infants exposed to drugs;

3.2.a.5. Children removed from their family due to substance use;

3.2.a.6. Overdose deaths;

3.2.a.7. Opioid Antagonist administrations; and

3.2.a.8. Opioid prescriptions.

3.2.b. Indirect measures (i.e., assessments based on the impact of drug use and persons who use drugs on health, social service, and criminal justice systems), and

3.2.c. Ethnographic study (i.e., information based on observation and/or description derived from individuals experiencing substance abuse disorder).

3.3. The Bureau will establish and implement a methodology, based on nationally recognized criteria, including but not limited to, criteria established by the American Society of Addiction Medicine (ASAM), to quantify the usage of and need for inpatient, outpatient, and residential behavioral health services throughout the State, taking into account projected patient care level needs.

§64-13-4. Community Participation.

For the purpose of developing a needs assessment, reviewing inventories and making recommendations regarding overall substance use disorder treatment and recovery service development and resource needs, the Bureau will consult with:

4.1. The ODCP;

4.2. Community substance use disorder prevention, early intervention, treatment and recovery organizations;

4.3. Family consumer and other mental health constituent groups,

4.4. West Virginia Hospital Association;

4.5. The state's academic health centers that specialize in services and research related to substance use disorder; and

4.6. Other statewide organizations that advocate for persons with substance use disorder and their families.

§64-13-5. Determination of Need.

5.1. The Department will, based upon the results of the needs assessment developed and administered by the Bureau pursuant to these rules, determine the disparities in the provision of licensed inpatient, outpatient, and residential behavioral health and substance use disorder services.

5.2. The determination of need developed and administered pursuant to these rules will be incorporated into the Department's process for evaluating and approving applications for Ryan Brown Fund grants to ensure their effective distribution and use.

5.3. To be eligible for a Ryan Brown Fund grant, an applicant must be licensed or eligible to be licensed to provide addiction and substance abuse services.