



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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10/25/2017 9:02:42 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 8 -- NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE (Page 1)

AGENCY **Health And Human Resources**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE No TITLE-SERIES **69-13**
RULE NAME **Development of Methodologies to Examine Needs for Substance Use Disorder Treatment
Facilities within the State**
CITE AUTHORITY **§16-1-4 and §16-53-3**

DATE EMERGENCY RULE WAS ORIGINALLY FILED

Tuesday, June 27, 2017

FIRST EMERGENCY AMENDMENT TO AN EXISTING RULE

SECOND EMERGENCY AMENDMENT TO AN EXISTING RULE

DATE OF FIRST EMERGENCY AMENDMENT

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

Yes

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 69-13



Rule Id: 16558



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FORM 8 -- NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE (Page 2)

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THE ATTACHED IS AN EMERGENCY AMENDMENT TO AN EXISTING EMERGENCY RULE. THIS EMERGENCY AMENDMENT BECOMES EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY AMENDMENT ARE AS FOLLOWS:

In order for the Emergency Rule to reflect the Legislative Rule modified by the Legislative Rule-Making Review Committee.

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 1)

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RULE NAME **Development of Methodologies to Examine Needs for Substance Use Disorder Treatment
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PRIMARY CONTACT

Heather McDaniel
One Davis Square
Suite 100
Charleston, WV 25301

Heather J McDaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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DATE OF FILING
Wednesday, October 25, 2017

STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE
§ 16-53-3

DATE OF FILING OF PROPOSED LEGISLATIVE RULE
Tuesday, June 27, 2017

DOES THE EMERGENCY RULE ADOPT NEW LANGUAGE OR DOES IT AMEND OR APPEAL A
CURRENT LEGISLATIVE RULE?

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND EXPIRED?
No

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE
EMERGENCY RULE NECESSARY FOR THE IMMEDIATE PRESERVATION OF PUBLIC PEACE,
HEALTH, SAFETY OR WELFARE.

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.

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 9 -- EMERGENCY RULE QUESTIONNAIRE (Page 3)

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IF THE EMERGENCY RULE WAS PROMULGATED IN ORDER TO COMPLY WITH A TIME LIMIT ESTABLISHED BY THE CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN.

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.

STATE, WITH PARTICULARITY, THOSE FACTS AND CIRCUMSTANCES WHICH MAKE THE EMERGENCY RULE NECESSARY TO PREVENT SUBSTANTIAL HARM TO THE PUBLIC INTEREST.

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.

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

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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PRIMARY CONTACT

Heather McDaniel
One Davis Square
Suite 100
Charleston, WV 25301

SECONDARY CONTACT

Cindy Dellinger
One Davis Square
Suite 100
Charleston, WV 25301

Heather J McDaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

N/A

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

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CITE AUTHORITY **§16-1-4 and §16-53-3**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0		0
PERSONAL SERVICES			
CURRENT EXPENSES			
REPAIRS AND ALTERATIONS			
ASSETS			
OTHER			
ESTIMATED TOTAL REVENUES	0		0

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

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CITE AUTHORITY **§16-1-4 and §16-53-3**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

N/A

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

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PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED
RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED
ELSEWHERE ON THIS FORM.

N/A

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

**Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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CITE AUTHORITY **§16-1-4 and §16-53-3**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE 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.

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

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

Yes

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 69-13



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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 five 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, the relative needs for substance use disorder treatment facilities within the state, to make 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 to implement 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. "Department" means the West Virginia Department of Health and Human Resources.

2.4. "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.

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

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

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

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

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

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

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

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

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

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

§64-13-3. Needs Assessment.

3.1. The Bureau will establish a mechanism through which a needs assessment is developed and administered to inform 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 a substance use 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 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.