



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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Office of West Virginia  
Secretary Of State

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**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL  
RULE**

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-41  
RULE TYPE: Procedural Amendment to Existing Rule: Yes Repeal of existing rule: Yes  
RULE NAME: Health Sciences Service Program  
CITE STATUTORY AUTHORITY: 18B-1-6

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

January 19, 2019

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Cindy L Anderson -- 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 133  
PROCEDURAL RULE  
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 41  
HEALTH SCIENCES SERVICE PROGRAM**

**§133-41-1. General.**

1.1. Scope. -- This rule promulgates policy and procedure regarding the establishment and operation of a Health Sciences Service Program.

1.2. Authority. -- West Virginia Code §18C-3-3.

1.3. Filing Date. -- December 19, 2018.

1.4. Effective Date. -- January 19, 2019.

1.5. Repeal of Former Rule. -- Repeals and replaces Title 133, Series 41, dated September 2, 2017.

**§133-41-2. Purpose.**

2.1. The purpose of this program is to provide an incentive for fourth-year medical students to complete their training and provide primary care or emergency medicine in underserved areas of West Virginia, for other health professional students to complete their training and provide primary care in underserved areas of West Virginia, or for nursing program students to complete their training and teach in a school of nursing in West Virginia.

2.1.a. "Primary care" means the health care services generally provided by family practice physicians, general practice physicians, general internists, geriatricians, obstetrician/gynecologists, general pediatricians, psychiatrists and mid-level providers, including nurse practitioners, nurse-midwives, physician assistants, dentists, pharmacists, physical therapists, doctoral clinical psychologists, and licensed independent clinical social workers, or other disciplines which may be identified as primary care by the Vice Chancellor for Health Sciences.

2.1.b. For medical students, the term "training" is defined as the completion of a degree program in allopathic or osteopathic medicine and includes the successful completion of a primary care or emergency medicine residency. For other applicants, the term "training" is defined as the entire degree program or certification program for advanced practice nurses (both master's and doctoral), physician assistants, dentists, pharmacists, physical therapists, doctoral clinical psychologists, licensed independent clinical social workers, or other disciplines identified as shortage fields by the Vice Chancellor for Health Sciences.

2.1.c. "Underserved" means any primary care health professional shortage area located in the state as determined by the Bureau for Public Health or any additional health professional shortage area determined by the Vice Chancellor for Health Sciences.

2.1.d. "School of nursing" means any associate, baccalaureate, master's or doctoral level nursing program in West Virginia accredited by a national nursing accrediting agency recognized by the United States Department of Education.

2.2. Health Sciences Service Program funds are to be used to award fourth-year medical students at a West Virginia school of allopathic or osteopathic medicine who have been accepted in an accredited

primary care or emergency medicine residency program in West Virginia; or to award students who are enrolled in the last academic year of an accredited education program at a West Virginia institution leading to a degree or certification as an advanced practice nurse, physician assistant, dentist, pharmacist, physical therapist, doctoral clinical psychologist, licensed independent clinical social worker, or other disciplines identified as shortage fields by the Vice Chancellor for Health Sciences. Students who are enrolled in the last year of an accredited master's or doctoral degree nursing program in West Virginia and intend to teach at a school of nursing in West Virginia also are eligible. Any funds repaid in lieu of practice in an underserved area of West Virginia or teaching at a school of nursing in West Virginia will be used to establish a revolving fund to make additional awards to eligible students.

### **§133-41-3. Eligibility Criteria.**

3.1. In order to be eligible for a Health Sciences Service Program award, each applicant must:

3.1.a. Certify that the applicant possesses educational debt in an amount equal to or exceeding the proposed award amount. "Educational debt" is defined as any government, commercial, or foundation loans for actual costs paid for tuition, reasonable education, and living expenses related to graduate or undergraduate education; and.

3.1.b. Be enrolled in the last academic year of an accredited education program at a West Virginia institution leading to a degree or certification as a physician, advanced practice nurse, physician assistant, dentist, pharmacist, physical therapist, doctoral clinical psychologist, licensed independent clinical social worker, or other disciplines identified as shortage fields by the Vice Chancellor for Health Sciences.

### **§133-41-4. Application Process.**

4.1. The applicant must apply to the Health Sciences Service Program using an application form approved by the Vice Chancellor for Health Sciences.

4.2. The Vice Chancellor for Health Sciences shall establish a deadline for applying for the Health Sciences Service Program. Applications must be complete and received by the deadline in order for the applicant to be considered for an award.

### **§133-41-5. Selection of Recipients.**

5.1. Recipients will be selected from a pool of all applicants.

5.2. Awards shall be determined by the Vice Chancellor for Health Sciences with the advice of an advisory panel.

5.2.a. The advisory panel may be made up of the Division of Health Sciences Advisory Committee and such other members as may be added by the Vice Chancellor for Health Sciences from time to time.

5.3. In order to be selected to receive a Health Sciences Service Program award, an applicant must agree to practice primary care full-time for at least two (2) years or half-time for at least four (4) years in an underserved area. For advanced practice nursing only, applicants may agree to practice primary care or teach full-time for at least two (2) years or half-time for at least four (4) years at a school of nursing. A medical student applicant who intends to enter an emergency medicine residency only must agree to practice emergency medicine instead of primary care full-time for at least two (2) years or half-time for at least four (4) years in an underserved area.

5.4. Applications will be processed without regard to race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity, and veteran status.

5.5. In making awards, the Vice Chancellor for Health Sciences may consider such factors as the applicant's expressed commitment to primary care or teaching, his or her work or community service experiences in underserved areas of the State and the applicant's ties in West Virginia. For a medical student applicant only, the Vice Chancellor for Health Sciences also may consider the applicant's expressed commitment to emergency medicine.

5.6. The number of awards shall be determined by the availability of funds.

5.7. Nothing in this rule shall be construed as granting or guaranteeing any applicant any right to such an award.

5.8. Awarding preference will be given to West Virginia residents in accordance with the West Virginia Higher Education Policy Commission's (Commission) policy regarding "Residency Classification of Students for Admission and Fee Purposes."

**§133-41-6. Award Provisions and Agreement.**

6.1. The award amount shall be at least \$20,000 for medical and dental students and at least \$10,000 for all other eligible disciplines.

6.2. The award agreement shall contain the provision that the recipient will agree to practice full-time for at least two (2) years or half-time for at least four (4) years in an underserved area of West Virginia or teach full-time for at least two (2) years or half-time for at least four (4) years at a school of nursing in West Virginia.

6.3. The award agreement shall state that if a recipient fails to complete the service obligation and repayment of the award is required, that the granting of renewal of a license to practice in West Virginia or to reciprocal licensure in another state based upon licensure in West Virginia shall be contingent upon the recipient's complete repayment of the award and any accrued interest, court costs, or other costs associated with the debt.

6.3.a. No license, renewal or reciprocity shall be granted to persons whose payments are in arrears.

6.3.b. The appropriate regulatory board shall inform all states where a recipient has reciprocated based upon West Virginia licensure of any refusal to renew licensure in West Virginia as a result of failure to repay the award amount.

6.4. No award payments shall be disbursed before a properly completed and signed award agreement and documentation of qualifying educational debt have been delivered by the recipient to the Vice Chancellor for Health Sciences or his or her designee.

6.5. A recipient who fails to complete his or her training or practice in an underserved area or fails to teach at a school of nursing as required by the award agreement is in breach of contract and is liable for repayment of the award as described in Section 9 of this rule.

**§133-41-7. Notification of Recipients and Fund Disbursement.**

7.1. The Vice Chancellor for Health Sciences or his or her designee shall notify students of their selection to receive an award.

7.2. The Vice Chancellor for Health Sciences shall disburse funds as follows upon the participant's completion of training:

7.2.a. One-half of the award amount will be disbursed to the participant upon beginning practice or teaching at an approved practice site.

7.2.a.1. For physician participants who sign an employment contract during residency as described in Section 8.3 of this rule, the participant will receive the first half of the award amount within thirty (30) days of the Vice Chancellor for Health Sciences approving their employment contract for the service obligation.

7.2.b. The remaining half of the award will be disbursed as follows:

7.2.b.1. For participants completing the service obligation through full-time practice or teaching, the remaining half of the award will be disbursed to the participant after one year of practice or teaching at an approved site. In order to receive the second disbursement, the participant must provide documentation to the Vice Chancellor for Health Sciences that the participant allocated the entire initial award disbursement toward the participant's educational debt balance.

7.2.b.2. For participants completing the service obligation through half-time practice or teaching, the remaining half of the award will be disbursed to the participant after two years of practice or teaching at an approved site. In order to receive the second disbursement, the participant must provide documentation to the Vice Chancellor for Health Sciences that the participant allocated the entire initial award disbursement toward the participant's educational debt balance.

7.2.b.3. For physician participants who begin their full-time service obligation during residency, the remaining half of the award will be disbursed one year after the initial award disbursement. For physician participants who begin their half-time service obligation during residency, the remaining half of the award will be disbursed two years after the initial award disbursement. In order to receive the second disbursement, the participant must provide documentation to the Vice Chancellor for Health Sciences that the participant allocated the entire initial award disbursement toward the participant's educational debt balance.

#### **§133-41-8. Fulfillment of Agreement.**

8.1. To fulfill the award agreement, a participant must complete the service obligation and provide documentation demonstrating the participant has allocated the entire award towards his or her educational debt.

8.2. A recipient shall satisfy his or her obligation as stated in the recipient's award agreement by practicing primary care full- or half-time or by full- or half-time teaching at a school of nursing in West Virginia. A medical student recipient only who has completed an emergency medicine residency shall satisfy his or her obligation practicing emergency medicine full- or half-time in West Virginia.

8.2.a. Any recipient may petition the Vice Chancellor for Health Sciences to pursue additional post-graduate training beyond requirements contained in this section. The Vice Chancellor for Health Sciences shall use his or her discretion in approving such request.

8.2.b. At the time a recipient is ready to start his or her practice or teaching, he or she may request that additional areas be considered as underserved by the Vice Chancellor for Health Sciences. Among the criteria for consideration of such additional areas are factors such as a population shift which

may create an additional underserved area or a location where a physician or other primary health care professional will retire or leave the area for other reasons.

8.2.c. With advance approval of the Vice Chancellor for Health Sciences, the recipient may serve his or her obligation concurrently with other service obligations.

8.3. A dentistry, advanced practice nursing, pharmacy, physical therapy, or physician assistant recipient must begin practicing and completing the service obligation within six (6) months of graduation.

8.4. A medical student recipient must begin practicing and completing the service obligation within six (6) months of completing a qualifying primary care or emergency medicine residency program in West Virginia.

8.4.a. Under certain circumstances during a medical student recipient's primary care or emergency medicine residency, the recipient may petition the Vice Chancellor for Health Sciences to allow his or her service obligation to begin during residency.

8.4.b. A recipient making such a request must possess an executed employment contract governing his or her post-residency employment. The practice site must be located in a qualifying underserved area. If the contract is for full-time employment, it must require the recipient to work at the practice site for at least two (2) years upon completion of a qualifying primary care or emergency medicine residency program in West Virginia. If the contract is for half-time employment, it must require the recipient to work at the practice site for at least four (4) years upon completion of a qualifying primary care or emergency medicine residency program in West Virginia.

8.4.c. The Vice Chancellor for Health Sciences shall use his or her discretion in approving such a request. If the Vice Chancellor for Health Sciences approves such a request, the recipient may begin serving the service obligation from the execution date of the employment contract.

8.5. A nurse educator recipient must begin teaching and completing the service obligation within six (6) months of graduation.

8.6. A doctoral psychology recipient must begin practicing and completing the service obligation within six (6) months of completing his or her one (1) year internship required for attaining licensure as a doctoral clinical psychologist.

8.7. A master's level social work recipient must begin practicing and completing the service obligation within six (6) months of completing his or her two (2) year post-graduate clinical field placement required for attaining licensure as a licensed independent clinical social worker.

#### **§133-41-9. Repayment of Award in Lieu of Service.**

9.1. In lieu of service, recipients must repay the full amount of funds received, plus interest, within one (1) year of the date they complete or terminate their training or one (1) year following the day they are no longer practicing in an underserved area of West Virginia or teaching in a qualifying nursing program in West Virginia.

9.1.a. Payment may be made in one full payment or, with the approval of the Vice Chancellor for Health Sciences, arrangements may be made to repay the award over a one (1) year period.

9.1.b. If a recipient serves as much as twelve (12) months full-time practice or twenty-four (24) months of half time practice for his or her obligation but does not complete the full obligation, payment

shall be figured on a pro rata basis. No credit shall be given for less than twelve (12) months of service of full-time practice or twenty-four (24) months of half-time practice.

9.2. Interest shall start to accrue on the day the recipient completes or terminates training or is no longer serving as stated in his or her award agreement.

9.2.a. Interest shall be at fifteen (15) percent. The Commission may, from time to time, change the rate of interest.

9.3. The recipient shall pay all attorney's fees and other costs and charges for the collection of any amount not paid when due.

**§133-41-10. Cancellation and Waiver of Practice or Teaching Obligation.**

10.1. In the event of the recipient's death, any unpaid indebtedness on his or her obligation shall be cancelled.

10.2. In the event of the permanent, total disability of the recipient, any unpaid indebtedness on his or her obligation shall be cancelled.

10.3. In certain cases such as partial disability, chronic disease, or other instances of extreme hardship, repayment of the award may be postponed or waived. The recipient must thoroughly document a request for such consideration. The Vice Chancellor for Health Sciences shall be the authority that may grant such postponement or waiver.

**§133-41-11. Annual Certification of Practice or Teaching.**

11.1. To be eligible for credit toward the obligation, the recipient must have approval from the Vice Chancellor for Health Sciences to practice at a specific practice site in an underserved area in West Virginia or teach in a specific qualifying nursing program in West Virginia. Throughout the course of their participation in the program, participants must annually provide evidence of continued practice or teaching at an approved site. Such evidence shall be presented on a form provided by the Vice Chancellor for Health Sciences for this purpose.

11.2. Recipients shall be required to maintain their current mailing address, email address, and phone number with the Vice Chancellor for Health Sciences until such time as the obligation has been satisfied through service or repayment.