



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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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: 133-61  
RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No  
RULE NAME: Choose West Virginia Practice Program  
CITE STATUTORY AUTHORITY: 18B-1-6

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

December 1, 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 61  
CHOOSE WEST VIRGINIA PRACTICE PROGRAM

**§133-61-1. General.**

1.1. Scope. -- This rule promulgates policy and procedure regarding the establishment and operation of the Choose West Virginia Practice Program through the West Virginia Higher Education Policy Commission (Commission).

1.2. Authority. -- West Virginia Code §18B-1-6 and §18C-3-5.

1.3. Filing Date. -- October 31, 2019.

1.4. Effective Date. -- December 1, 2019.

**§133-61-2. Purpose.**

2.1. The purpose of this program is to provide an incentive to out-of-state students enrolled in West Virginia medical schools in exchange for the students' agreement to practice in West Virginia upon completion of training.

2.1.a. "Shortage specialty" means the medical specialties of addiction medicine, general surgery, neurology, and any other specialties determined by the Vice Chancellor for Health Sciences to meet the requirements of West Virginia Code §18C-3-5.

2.1.b. "Primary care" means the medical specialties of family medicine, general internal medicine, geriatrics, internal medicine/pediatrics, obstetrics/gynecology, pediatrics, preventive medicine, psychiatry, or other specialties determined by the Vice Chancellor for Health Sciences to meet the requirements of West Virginia Code §18C-3-5.

2.1.c. "Training" is defined as the completion of a degree program in allopathic or osteopathic medicine, the successful completion of a residency program, and any additional fellowship training required by the specialty.

2.1.d. "Underserved" means any primary care or shortage specialty practice site located in an area of the state in which there is a shortage of physicians as determined by the Bureau for Public Health.

2.2. Any funds repaid in lieu of practice in an underserved area of West Virginia will be transferred to the Nonresident Medical Student Tuition Regularization Fund. Expenditures from the fund shall be to make additional awards to eligible students and support administrative program costs.

**§133-61-3. Eligibility Criteria.**

3.1. In order to be eligible for a Choose West Virginia Practice Program award, each applicant must:

3.1.a. Be enrolled at Marshall University, West Virginia School of Osteopathic Medicine, or West Virginia University in a program leading to the degree of Doctor of Medicine or Doctor of Osteopathy.

3.1.b. Meet his or her institution's requirements for being classified as an out-of-state student.

3.1.c. Not be in default of any previous student loan.

**§133-61-4. Application Process.**

4.1. The applicant must apply to the Choose West Virginia Practice Program using an application form approved by the Vice Chancellor for Health Sciences and submit a sworn statement of commitment to service in an underserved area of West Virginia.

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

**§133-61-5. Selection of Recipients.**

5.1. Each medical school shall provide the Vice Chancellor for Health Sciences with the name of a staff member to serve as the designated Choose West Virginia Practice Program representative. After the application deadline, the Vice Chancellor for Health Sciences shall compile and then send to each designated representative all complete applications received from his or her respective institution.

5.2. Working with the three medical schools, the Vice Chancellor for Health Sciences shall establish criteria for evaluating applications. Criteria may include the applicant's commitment to primary care or a shortage specialty, expressed interest in practicing in West Virginia, family or professional ties to West Virginia, and other factors determined important to evaluate applications.

5.3. Each medical school shall establish an application review committee that includes the designated representative, the Vice Chancellor for Health Sciences or designee, and at least one other representative.

5.4. Each application review committee will review the applications for its institution and make awards to two applicants each year.

5.4.a. In the event two qualified applicants do not exist, the institution must notify the Vice Chancellor for Health Sciences. The Vice Chancellor for Health Sciences will then notify the other institutions of the unspent funding. If the other institutions have more than two qualified applicants, the unused funding may be transferred to another institution for use.

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

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

**§133-61-6. Eligibility For an Award in Multiple Academic Years**

6.1. A recipient who receives an award may be eligible to draw down additional awards in every remaining year of the recipient's medical school education.

6.1.a. In order to be eligible for an award in a subsequent award cycle, the recipient must have progressed to the next academic year of the program, be in good professional standing and not be on probation or suspension or other circumstances deemed by the institution to warrant loss of good standing.

6.2. The recipient must notify the Vice Chancellor for Health Sciences annually whether the recipient wishes to receive the award for the current academic year.

6.3. The maximum number of awards a recipient may receive is four.

**§133-61-7. Award Provisions and Promissory Note.**

7.1. Upon notification of his or her acceptance into the program, each recipient must sign a promissory note agreeing to the program requirements. No award payments shall be disbursed before the recipient has properly completed and signed the promissory note.

7.2. By signing the promissory note, the recipient will agree to practice full-time in an underserved area for one year for every academic year the applicant receives an award. Additionally, the recipient will agree that if he or she fails to complete his or her training or practice at an eligible service site as required by the award agreement, then the recipient is in breach of contract and is liable for repayment of the award.

7.3. If a recipient fails to complete the service obligation and repayment of the award is required, the granting of or a 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 repayment of the award and any accrued interest, court costs, or other costs associated with the debt.

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

7.3.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.

7.4. Upon execution of the promissory note, each recipient shall receive a tuition waiver in the amount of the difference of the in-state and out-of-state tuition charged by the awardee's institution for the academic year during which the recipient is selected for the program.

7.4.a. If a recipient receives the award in more than one academic year, the waiver amount will be adjusted each year to reflect the current year's tuition differential between the institution's in-state and out-of-state tuition. A recipient must sign a separate promissory note for each year the recipient receives an award.

**§133-61-8. Notification of Recipients and Fund Disbursement.**

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

8.2. Each medical school shall invoice the Commission each year for the amount of funds required to provide the approved number of awards to its students. Once a medical school's invoice is approved by the Vice Chancellor for Health Sciences, the Commission shall disburse funds to the medical school.

8.3. The medical school will apply program funds in the form of a tuition waiver against the recipient's tuition statement for the academic year in which the student receives the program award.

8.4. If a recipient terminates enrollment for any reason during the academic year, the unused portion of the award shall be returned to the Commission by the institution in accordance with the Commission's rule for issuing refunds pursuant to the provisions of West Virginia Code §18C-5-1 et seq. If the recipient also received federal financial aid, the institution must abide by the refund policy associated with Title IV funds. The institution is responsible for returning the unused portion of the award even if the student does not request a refund from the institution.

**§133-61-9. Completion of Program of Study and Training.**

9.1. Recipients must complete medical school within a reasonable time period not to exceed six (6) years.

9.2. Recipients must complete residency training in a specialty leading to a practice in one of the primary care or shortage specialties. Recipients must complete residency training within a reasonable time period not to exceed six (6) years.

9.3. Fellowship training is allowed if the Vice Chancellor for Health Sciences determines it is relevant to the recipient's selected specialty. Recipients must complete fellowship training within a reasonable time period not to exceed three (3) years.

**§133-61-10. Fulfillment of Agreement.**

10.1. A recipient shall satisfy his or her obligation as stated in the recipient's award agreement by practicing at an eligible service site in West Virginia. If the program's definition of eligible service sites changes between the recipient receiving his or her award and beginning practice, the recipient may select a practice site that meets either the current definition or the definition in place during any of the academic years in which the recipient received the award.

10.1.a. 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 eligible service sites by the Vice Chancellor for Health Sciences. A recipient must provide documentation to explain why the site should be considered for a waiver of program requirements. The Vice Chancellor for Health Sciences shall use his or her discretion in approving the award.

10.2. Unless a waiver is granted, the recipient must begin practicing within six (6) months of completing training.

10.2.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.

**§133-61-11. Coordination With Other Programs.**

11.1. Federal policy prohibits concurrent service of Choose West Virginia Practice Program service obligation with some federal programs' service obligations, such as the National Health Service Corps' Scholarship Program.

11.2. With advance approval of the Vice Chancellor for Health Sciences, the recipient may serve his or her obligation concurrently with other programs with service obligations that do not fall under the federal prohibition of concurrent service obligations.

**§133-61-12. Repayment of Award in Lieu of Service.**

12.1. In lieu of service, a recipient must repay the full amount of funds received, plus interest at a rate of five percent per year. Repayment must occur in full within three (3) years of the date the recipient completes or terminates his or her training or if the participant begins the service obligation, within three (3) years following the date he or she is no longer practicing at an eligible service site.

12.1.a. Payment may be made in one full payment or arrangements may be made to repay the award over up to a three (3) year period.

12.1.b. If a recipient serves as much as six (6) months full-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 six (6) months of service of full-time practice.

12.2. Interest shall start to accrue on the day the recipient completes or terminates training or is no longer serving as required by the promissory note.

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

**§133-61-13. Collections.**

13.1. Institution and Commission staff shall exercise due diligence in collecting monetary repayments from program recipients.

13.2. Institutional due diligence means:

13.2.a. Conducting and documenting an entrance interview (individually or in groups) with an award recipient before disbursing funds in an academic year. This requirement may be met by correspondence if the institution determines that a face-to-face meeting is not practical.

13.2.b. Conducting and documenting an exit interview with the award recipient in which the institution provides the borrower with information necessary to carry out the terms of repayment, reminds the recipient of the rights and responsibilities associated with the funds, and updates the recipient's personal information to assist in locating the recipient if he or she fails to keep the institution or the Commission informed of his or her current address.

13.3. Commission due diligence means:

13.3.a. Notifying the award recipient of his/her obligations at least once annually during any grace or deferment period.

13.3.b. Performing regular billing.

13.3.c. Following up past due payments with a series of at least four (4) documented and reasonably spaced attempts to contact the borrower, at least three (3) of which must be in writing at not more than thirty (30)-day intervals, before the obligation becomes one hundred-twenty (120) days past due, provided that the Commission has a current address for the borrower.

13.3.d. Performing address searches when necessary.

13.3.e. Referring defaulted award recipients more than one hundred-twenty (120) days past due to the Secretary of the Department of Administration or to a collection agent.

13.4. In place of one or more of the procedures outlined above, institutions and Commission staff may substitute collection techniques that are equally or more effective.

**§133-61-14. Cancellation and Waiver of Practice Obligation.**

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

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

14.3. 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.

**§133-61-15. Annual Certification of Practice.**

15.1. 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. Throughout the course of their participation in the program, recipients must annually provide evidence of continued practice at an approved site. Such evidence shall be presented on a form provided by the Vice Chancellor for Health Sciences for this purpose.

15.2. 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.

**§133-61-16. Appeals.**

16.1. A student may appeal in writing the denial of an initial award or renewal award or any other decision within fifteen (15) days of receiving notification to the Vice Chancellor for Health Sciences. The Vice Chancellor for Health Sciences may consult with an appeals committee comprised of financial aid staff, health sciences staff, and representatives from the applicant's institution. The Vice Chancellor for Health Sciences shall issue a written decision upholding or reversing the initial decision within fifteen (15) days of receipt of the appeal.

16.2. An applicant may further appeal in writing the decision of the Vice Chancellor for Health Sciences within fifteen (15) days of receipt of notification of the decision to the Vice Chancellor for Administration. The Vice Chancellor for Administration shall issue a written decision upholding or reversing the Vice Chancellor for Health Sciences' decision within twenty (20) days of receipt of the appeal.

16.3. Any appeal made should set forth in detail the grounds for the appeal. The decision rendered at each level shall address in writing each ground raised.

**§133-61-17. Accounting, Reporting, and Auditing Requirements.**

17.1. Before the end of each fiscal year, each institution's financial aid office must reconcile its program records with:

17.1.a. The Commission's records of program awards and disbursements; and

17.1.b. The institution's business office records of program disbursements.

17.2. All participating institutions may be subject to financial aid audits.