



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Health TITLE-SERIES: 64-97
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 64-97 Maternal Risk Screening

PRIMARY CONTACT

NAME: Michelle L Bradley
ADDRESS: One Davis Sqare
Suite 100 E
Charleston, WV 25301
EMAIL: michelle.l.bradley@wv.gov
PHONE NUMBER: 304-558-6052

CITE STATUTORY AUTHORITY: 16-1-4 and 16-4E-4

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:

The secretary may propose rules in accordance with the provisions of 29A-3-1 et seq. of this code that are necessary and proper to effectuate the purposes of this chapter. The Department of Health and Human Resources shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code. The legislative rules shall include a uniform maternal risk screening tool to identify women at risk for a preterm birth or other high-risk condition.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/29/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/29/2021

COMMENTS RECEIVED: No

(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?

n/a

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

This rule further implements the Uniform Maternal Screening Act by setting forth responsibilities of the advisory council created in the Act; developing and establishing the requirement for health care practitioners to use a uniform maternal risk screening tool; and providing for the confidentiality of the tool.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Changes are required pursuant to legislative action to allow disclosure of uniform maternal risk screening tool data to the DHHR Bureau for Medical Services and its contracted managed care organizations.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

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

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			0
Personal Services			0
Current Expenses			0
Repairs and Alterations			0
Assets			0
Other			0
2. Estimated Total Revenues			0

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

n/a

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

Yes

April L Robertson -- 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 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 97
MATERNAL RISK SCREENING

§64-97-1. General.

1.1. Scope. -- This rule further implements the Uniform Maternal Screening Act by setting forth responsibilities of the advisory council created in the Act; developing and establishing the requirement for health care practitioners to use a uniform maternal risk screening tool; and providing for the confidentiality of the tool. ~~This rule should be read in conjunction with W. Va. Code §16-4E-1, et seq. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.lexis.state.wv.us/>.~~

1.2. Authority. -- W. Va. Code §16-1-4 and §16-4E-4.

1.3. Filing Date. -- ~~April 21, 2011.~~

1.4. Effective Date. -- ~~April 21, 2011.~~

1.5. Sunset. -- This rule shall terminate and have no further force or effect on August 1, 2027.

§64-97-2. Application.

2.1. Application. -- This rule applies to all health care providers offering maternity services.

2.2. Enforcement. -- This rule is enforced by the Office of Maternal, Child and Family Health in the Bureau for Public Health.

§64-97-3. Definitions.

3.1. Maternal Risk Screening -- Screening conducted by physicians, midwives, and other qualified health care practitioners to discover at-risk and high-risk pregnancies.

3.2. Maternal Risk Screening Advisory Council -- A multidisciplinary group of professionals including representatives from public health and the medical community, all with an interest in improving pregnancy outcomes.

§64-97-4. Responsibilities of Maternal Risk Screening Advisory Council.

4.1. The Maternal Risk Screening Advisory Council shall exercise the following responsibilities:

4.1.a. Meet at least annually;

4.1.b. Offer expert advice to the Office of Maternal, Child and Family Health to gain a better understanding of at-risk and high-risk conditions that are most frequently observed and to develop methodology to address these concerns;

4.1.c. Develop and facilitate ongoing examination of a uniform maternal risk screening tool to identify risk conditions that contribute to adverse pregnancy outcomes and review the tool at least annually to offer suggested revisions based upon current medical knowledge;

4.1.d. Develop, in conjunction with the Office of Maternal, Child and Family Health, a statistical matrix to measure incidence of high-risk and at-risk pregnancies for planning purposes by public health officials; and

4.1.e. Develop methods to collect evidence-based data reported to the Office of Maternal, Child and Family Health needed to track at-risk and high-risk women.

§64-97-5. Applicability of the Screening Tool.

5.1. The maternal risk screening tool, developed by the advisory council, may be found online at ~~<http://www.wvdhhr.org/mcfh>~~ <https://www.wvdhhr.org/mcfh/>. All health care providers offering maternity services shall be required to use this maternal risk screening tool in their initial examination of all pregnant women.

5.2. The health care provider shall notify the woman of any high-risk condition which has been identified along with any appropriate referral.

5.3. The health care provider shall report the maternal risk screening tool results to the Bureau for Public Health, Office of Maternal, Child and Family Health ~~by FAX (304) 957-0176~~ in such manner as prescribed by that office.

§64-97-6. Confidentiality.

6.1. The uniform maternal risk screening tool shall be confidential and shall not be released or disclosed to anyone for any reason other than data analysis of high-risk and at-risk pregnancies and for planning purposes by public health officials: Provided, That Medicaid or CHIP members' data from the screening tool may be provided to the Department of Health and Human Resources' Bureau for Medical Services and contracted managed care organizations to facilitate the timely initiation of case management for at-risk and high-risk pregnancies. The Bureau for Medical Services and its contracted managed care organizations must conform with all applicable laws and current industry standards governing confidentiality, including the establishment of appropriate administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent unauthorized use or access to it.

6.2. Proceedings, records, and opinions of the advisory council are confidential and are not subject to discovery, subpoena, or introduction into evidence in any civil or criminal proceeding. Nothing in this subsection is to be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the advisory council.

6.3. Members of the advisory council may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a meeting of the council. Nothing in this subsection may be construed to prevent a member of the advisory council from testifying to information obtained independently of the council or which is public information.