



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 And Human Resources TITLE-SERIES: 69-13

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

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

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 16-1-4

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:

16-53-3

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

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? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

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

PUBLIC HEARING:

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

RELEVANT FEDERAL STATUTES OR REGULATIONS:

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

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 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:

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		
	2022 Increase/Decrease (use "-")	2023 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 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

§69-13-1. 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 and 16-53-3.

1.3. Filing Date. -- ~~April 13, 2018.~~

1.4. Effective Date. -- ~~March 22, 2018~~

1.5 Sunset Provision: -- This rule shall terminate and have no further force or effect ~~on March 22, 2023~~ on August 1, 2028.

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.

§69-13-2. Definitions.

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

2.2. "Bureau" means the Bureau for Behavioral Health and Health 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 seven 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, 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, Mason, Putnam, Wayne, Lincoln, Boone, Logan, and Mingo counties.

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

2.6.g. Region 7: Clay, Fayette, Kanawha, Nicholas, and Roane 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.

§69-13-3. 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.

§69-13-4. 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.

§69-13-5. 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.