



Office of Inspector General/Office
of Health Facility Licensure &
Certification

Public Comments on the Behavioral
Health Center Licensure Rule (71CSR25)

| # | Rule Section | By Whom? | Comment | Response to Comment |
|---|--------------|---|---|--|
| 1 | 3.11. | West Virginia Behavioral Healthcare Providers Association | Definition of case management should be reviewed as it applies to certified community behavioral health clinics. | The Office of Inspector General has reviewed this comment. This comment is general in nature and offers no specific areas for amendment. Definitions are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 2 | 3.15. | West Virginia Behavioral Healthcare Providers Association | Definition of comprehensive plans of service should be reviewed as it applies to certified community behavioral health clinics. | The Office of Inspector General has reviewed this comment. This comment is general in nature and offers no specific areas for amendment. Definitions are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 3 | 3.17. | West Virginia Behavioral Healthcare Providers Association | Definition of critical incident should be reviewed as it applies to certified community behavioral health clinics. | The Office of Inspector General has reviewed this comment. This comment is general in nature and offers no specific areas for amendment. Definitions are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 4 | 3.22. | West Virginia Behavioral Healthcare Providers Association | Definition of expanded plan of services should be reviewed as it applies to certified community behavioral health clinics. | The Office of Inspector General has reviewed this comment. This comment is general in nature and offers no specific areas for amendment. Definitions are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 5 | 3.29. | West Virginia Behavioral Healthcare Providers Association | Definition of interdisciplinary team should be reviewed as it applies to certified community behavioral health clinics. | The Office of Inspector General has reviewed this comment. This comment is general in nature and offers no specific areas for amendment. Definitions are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 6 | 6.2.2. | West Virginia Behavioral Healthcare Providers Association | Providers are no longer required to obtain vehicle inspection stickers under Title XIX Waiver program as of July 1, 2024. Tracking which cars that staff use for providing services becomes more complex and an administrative burden. Staff may utilize multiple vehicles, leading to complications in maintaining accurate records. Employees borrowing or using different vehicles frequently is very common among DSPs. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. |

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| 7 | 6.3. | West Virginia Behavioral Healthcare Providers Association | References need to share with human rights – versus certified community behavioral health clinics steering committee. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. It is believed this comment is actually in reference to section 5.3. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 8 | 7.5.9. | West Virginia Behavioral Healthcare Providers Association | New 42 CFR Part 2 removes requirement for written consent when for purposes of treatment. The new rule CFR is in line with certified community behavioral health clinics efforts to eliminate barriers. Might serve to change language a bit to reflect disclosures for treatment do not require written consent. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. All licensed behavioral health centers are expected to follow all applicable state and federal laws and regulations, including HIPAA, pursuant to section 7.1. |
| 9 | 7.6. | West Virginia Behavioral Healthcare Providers Association | Compare to DCO | The Office of Inspector General has reviewed this comment. This comment is general in nature and offers no specific areas for amendment. |
| 10 | 12.3. | West Virginia Behavioral Healthcare Providers Association | Requires a comprehensive evaluation to be completed and in the record within 48 hours of admission. Certified community behavioral health clinics are encouraged to perform brief screenings and interviews to get individuals in for needed services more quickly. Timelines and content are at odds between the rule and certified community behavioral health clinics. The standard defines what is required for an initial screening and then allows the more comprehensive, time-consuming evaluation to be completed within 60 days. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 11 | 12.4.1. | West Virginia Behavioral Healthcare Providers Association | Review at 90 days versus 180-day interval. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |

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| 12 | 12.7. | West Virginia Behavioral Healthcare Providers Association | Has specific criteria for treatment plans that are in conflict with certified community behavioral health clinic principles. Timelines, content, and participants are at odds between the rule and certified community behavioral health clinics. The rule requires goals, objectives that are specific, observable, and measurable, including outcome and component objectives. Certified community behavioral health clinic criteria have treatment plans in the individual's words/language. Plans are reviewed no less than every six months. The only required parties are the individual receiving services and/or their legal representative. Others are able to participate as invited. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 13 | 12.8. | West Virginia Behavioral Healthcare Providers Association | Review and discuss in comparison to certified community behavioral health clinics and coordination of care agreements versus treatment plans. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 14 | 12.9.5. | West Virginia Behavioral Healthcare Providers Association | 90 and 180 days, review definition of critical treatment junctures in 12.10. | The Office of Inspector General has reviewed this comment. Existing provisions in this rule address this issue, therefore, no changes were made. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 15 | 12.14. | West Virginia Behavioral Health Providers Association | Review against certified community behavioral health clinics. | The Office of Inspector General has reviewed this comment. This comment is general in nature and offers no specific areas for amendment. Provisions of this rule are written to apply to all licensed behavioral health centers of which certified community behavioral health clinics are one subset. |
| 16 | 12.30.1. | Delegate Scot Heckert | Amending language in this section to state as follows: "Residential substance use disorder facilities, in addition to the licensure requirements of this rule, shall also be <u>fully</u> accredited with the Commission on Accreditation of Rehabilitation Facilities International, the Joint Commission, or Pet Norske Veritasto operate an inpatient facility that provides behavioral health services." | The Office of Inspector General has reviewed this comment and finds clarification is needed; therefore, some changes were made. |
| 17 | 12.30.1. | West Virginia Behavioral Healthcare Providers Association | Deemed Status – Providers with CARF, Joint Commission, and Det Norske Veritas accreditation will receive deemed status and do not require an OHFLAC survey accreditation period. OHFLAC surveys would lead to increased workloads for healthcare staff by having to use time to prepare for evaluations. | The Office of Inspector General has reviewed this comment, and no changes were made. This rule sets forth the minimum requirements for licensed behavioral health centers which are expected to be met every day and not only on days when the Office of Inspector General/Office of Health Facility Licensure and Certification performs unannounced inspections. |

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| 18 | 12.30.2. | Delegate Scot Heckert | Amending language in this section to state as follows: "Residential substance use disorder facilities licensed by the Office of Health Facility Licensure and Certification pursuant to this rule as of May 20, 2024, must receive accreditation <u>as described in section 12.30.1.</u> no later than January 1, 2026, and submit evidence of the same to the Office of Health Facility Licensure and Certification." | The Office of Inspector General has reviewed this comment and finds clarification is needed; therefore, some changes were made. |
| 19 | 12.30.3. | Delegate Scot Heckert | Amending language in this section to state as follows: "Any new residential substance use disorder facility, as a result of beginning new operations, opening a newly <u>licensed</u> location, or a <u>lawful</u> change of ownership <u>with new licensure</u> , after May 20, 2024, shall be required to receive accreditation <u>as described in subsections 12.30.1., 12.30.2. and 12.30.3.</u> , within one year of the initial licensure by the Office of Health Facility Licensure and Certification, <u>and submit evidence of the same to the Office of Health Facility Licensure and Certification.</u> | The Office of Inspector General has reviewed this comment and finds clarification is needed; therefore, some changes were made. |
| 20 | New 12.30.4. | Delegate Scot Heckert | Add a new section as 12.30.4. stating as follows: "Residential substance use disorder facilities shall renew accreditation as required by this section at intervals required by the applicable accrediting body. If, for any reason, a licensed residential substance use disorder facility has a lapse in accreditation as required by subsections 12.30.1., 12.30.2., and 12.30.3., the facility shall immediately notify the Office of Health Facility Licensure and Certification shall take appropriate action against the facility according to this rule and other applicable statutes and regulations of the State of West Virginia." | The Office of Inspector General has reviewed this comment and finds clarification is needed; therefore, some changes were made. |
| 21 | New 12.30.5. | Delegate Scot Heckert | Add a new section as 12.30-5. stating as follows: "Beginning on January 1, 2026, on at least a monthly basis, the Office of Health Facility Licensure and Certification shall communicate to the Bureau for Medical Services the following information regarding all facilities licensed as residential substance use disorder facilities with the Office:" | The Office of Inspector General has reviewed this comment, and no changes were made. Information about facilities is publicly available, including to the Bureau for Medical Services, on the Office of Health Facility Licensure and Certification's website. |
| 22 | New 12.30.5.a. | Delegate Scot Heckert | Add a new subsection as 12.30.5.a. stating as follows: "A list of all licensed residential substance use disorder facilities for which the Office has on file an active accreditation certificate as required by this section, including the date on which such accreditation certificate was granted; and" | The Office of Inspector General has reviewed this comment, and no changes were made. Information about facilities is publicly available, including to the Bureau for Medical Services, on the Office of Health Facility Licensure and Certification's website. |

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| 23 | New 12.30.5.b. | Delegate Scot Heckert | Add a new subsection as 12.30.5.b. stating as follows: "A list of all licensed residential substance use disorder facilities for which the Office has been informed have had an accreditation certificate as required by this section lapse, and the date upon which it lapsed." | The Office of Inspector General has reviewed this comment, and no changes were made. Information about facilities is publicly available, including to the Bureau for Medical Services, on the Office of Health Facility Licensure and Certification's website. |



Whitmore, Jessica Y <jessica.y.whitmore@wv.gov>

Re: Behavioral Health Center Legislative Rule

1 message

Scot Heckert <Scot.Heckert@wvhouse.gov>
To: "Whitmore, Jessica Y" <jessica.y.whitmore@wv.gov>

Fri, Aug 23, 2024 at 10:56 AM

Good Morning,
Jessica Y. Whitmore
Take a look at the revisions below

12.30. Residential Substance Use Disorder Facilities.

12.30.1. Residential substance use disorder facilities, in addition to the licensure requirements of this rule, shall also be fully accredited with the Commission on Accreditation of Rehabilitation Facilities International, the Joint Commission, or Pet Norske Veritasto operate an inpatient facility that provides Behavioral health services.

12.30.2. Residential substance use disorder facilities licensed by the Office of Health Facility Licensure and Certification pursuant to this rule as of May 20, 2024, must receive accreditation as described in section 12.30.1 no later than January 1, 2026, and submit evidence of the same to the Office of Health Facility Licensure and Certification.

12.30.3. Any new residential substance use disorder facility, as a result of beginning new operations, opening a newly licensed location, or a lawful change of ownership with new licensure, after May 20, 2024, shall be required to receive accreditation as described in subsections 12.30.1, 12.30.2, and 12.30.3, within one year of the initial licensure by the Office of Health Facility Licensure and Certification, and submit evidence of the same to the Office of Health Facility Licensure and Certification.

12.30.4. Residential substance use disorder facilities shall renew accreditation as required by this section at intervals required by the applicable accrediting body. If, for any reason, a licensed residential substance use disorder facility has a lapse in accreditation as required by subsections 12.30.1, 12.30.2, and 12.30.3, the facility shall immediately notify the Office of Health Facility Licensure and Certification, and the Office of Health Facility Licensure and Certification shall take appropriate action against the facility, according to this rule and other applicable statutes and regulations of the State of West Virginia.

12.30.5. Beginning on January 1, 2026, on at least a monthly basis, the Office of Health Facility Licensure and Certification shall communicate to the Bureau for Medical Services the following information regarding all facilities licensed as residential substance use disorder facilities with the Office:

a. A list of all licensed residential substance use disorder facilities for which the Office has on file an active accreditation certificate as required by this section, including the date on which such accreditation certificate was granted; and

b. A list of all licensed residential substance use disorder facilities for which the Office has been informed have had an accreditation certificate as required by this section lapse, and the date upon which it lapsed.

12.30.4. In the event that the requirements of W.Va. Code §9-5-29 a expire, subsections 12.30.1., 12.30.2, and 12.30.3. also will expire.

12.30.5. All residential substance use disorder facilities are subject to the provisions of W.Va. Code §16-2D-9(5).

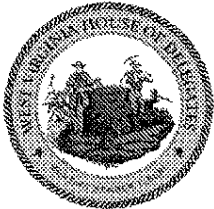
thanks for your time

Thank You

Scot Heckert

House of Delegates

District 13, Wood County



From: Whitmore, Jessica Y <jessica.y.whitmore@wv.gov>
Sent: Wednesday, July 31, 2024 4:11 PM
To: Scot Heckert <Scot.Heckert@wvhouse.gov>
Subject: Behavioral Health Center Legislative Rule

Delegate Heckert:

As requested during a telephone call we had, I believe this past month, attached is a copy of the amendments to the Behavioral Health Center licensure rule. In addition, I have provided the link to the Secretary of State website directly to this rule if a digital or other format is preferred. You had specifically inquired about the provisions being added pursuant to the passage of HB 113 during the 20224 First Special Session. Those amendments can be found in the new section 12.30. This rule is open for public comment until August 29, 2024. If you have any questions, please let me know.

Link: <https://apps.sos.wv.gov/adlaw/csr/ruleview.aspx?document=18154&KeyWord=>



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| Section | Page | Title | Comments |
|---------|---------------|---|--|
| 6.2.2 | 18 | Inspection Stickers | As of July 1, 2024, providers are no longer required to obtain vehicle inspection stickers under Title XIX Waiver program. Tracking which cars staff use for providing services becomes more complex and an administrative burden. Staff may utilize multiple vehicles, leading to complications in maintaining accurate records. Employees borrowing or using different vehicles frequently is very common among DSPs. |
| 12.30.1 | 54 | Accreditation | Organizations with deemed status and do not require an OHFLAC survey during accreditation period. Much like OHFLAC survey, accreditation surveys are comprehensive and both review the same thing. While accreditation and OHFLAC surveys greatly contribute to quality and regulatory compliance, they can also lead to increased workloads for healthcare staff. The preparation for evaluations, combined with daily responsibilities, can strain resources and time. Organizations must balance the demands of accreditation with routine operations to maintain quality care and meet compliance requirements. Achieving deemed status allows accredited providers to focus more on patient care rather than being tied up in repetitive regulatory inspections. However, maintaining this status requires ongoing commitment to compliance and quality standards. Continuous engagement with the accreditation process not only upholds the organization's credibility but also drives improvements in the quality of care provided to patients. |
| 77-11 | | CCBHC - | In preparation for discussion regarding differences found in 71 CSR 11 and proposed CCBHC guidelines, we suggest an initial conversation regarding the following: General differences between the principles of CCBHC with regard to increasing access to necessary services by alleviating barriers and requirements to reduce wait times and current requirements in 71-11. The most significant are: |
| 77-11 | 3, 4, 5, 6, 7 | Definitions to be reviewed: | 3.11 Case Management 3.15 Comprehensive Plans of Services 3.17 Critical Incident 3.22 Expanded Plan of Services 3.29 Interdisciplinary Team |
| 6.3 | 19 | Quality Insurance | references need to share with Human Rights – versus CCBHC Steering Committee. new 42 cfr part 2 removes requirement for written consent when for purposes of treatment. The new rule is in line with CCBHC efforts to eliminate barriers. Might serve to change language a bit to reflect disclosures for treatment do not require written consent. |
| 7.5.9 | 20 | Release of consumer information and records | |
| 7.6 | 22 | Contractual Relationships | Compare to DCO |
| 12.3 | 35 | Assessments and Intake Procedures | requires a comprehensive evaluation to be completed and in the record within 48 hours of admission. CCBHC are encouraged to perform brief screenings and interviews to get individuals in for needed services more quickly. Timelines and content are at odds between the rule and CCBHC. The standard defines what is required for an initial screening and then allows the more comprehensive, time-consuming evaluation to be completed within 60 days. |
| 12.4.1 | 36 | Planning for services | Review at 90 days versus 180 day interval |

