



WEST VIRGINIA SECRETARY OF STATE

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ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Health

RULE TYPE: Legislative

TITLE-SERIES: 64-42

RULE NAME: CHILDHOOD LEAD SCREENING

CITE AUTHORITY: W. Va. Code §16-1-4 and §16-35-4a.

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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

Yes

Virginia M Payne -- 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
DEPARTMENT OF HEALTH
BUREAU FOR PUBLIC HEALTH

SERIES 42
CHILDHOOD LEAD SCREENING

§64-42-1. General.

1.1. Scope. -- This rule establishes and implements a statewide childhood lead poisoning screening and identification program.

1.2. Authority. -- W. Va. Code §16-1-4 and §16-35-4a.

1.3. Filing Date. -- ~~April 4, 2022.~~

1.4. Effective Date. -- ~~April 4, 2022.~~

1.5. Sunset. -- This rule shall terminate and have no further force or effect on August 1, ~~2027~~ 2032.

§64-42-2. Application and Enforcement.

2.1. This rule applies to all physicians, hospitals, health care facilities, and health care providers who conduct or oversee medical examinations of children under the age of six years.

2.2. Enforcement -- This rule is enforced by the Commissioner of the Bureau for Public Health.

§64-42-3. Definitions.

All terms contained in this rule shall have the same meaning as set forth in W. Va. Code §16-35-3. This section sets forth definitions for terms that are not otherwise defined, but that appear through this rule

~~3.1. Bureau. — The West Virginia Bureau for Public Health.~~

~~3.2.~~ 3.1. Commissioner. -- The Commissioner of the Bureau for Public Health.

~~3.3. Elevated Blood Lead Level. — A concentration of lead in the blood stream as defined in U.S. Department of Health and Human Services, Centers for Disease Control and Prevention Advisory Committee on Childhood Lead Poisoning Prevention, *Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention* (2012).~~

~~3.4.~~ 3.2. Health Care Provider. -- A physician, or his or her designee, at any medical facility, including but not limited to, private clinics, health departments, and hospitals.

~~3.5.~~ 3.3. Laboratory. -- A facility or place, however, named, for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the

health of human beings and is participating in the CDC blood lead laboratory proficiency program.

~~3.6.~~ 3.4. Screening. -- The assessment of a child's environment and social conditions to determine risk for lead poisoning.

~~3.7.~~ 3.5. Screening test. -- A procedure using a blood sample to detect lead poisoning levels.

§64-42-4. Protocol for Screening of Children.

4.1. West Virginia health care providers shall conduct a screening test on all children before the age of six years for risk of elevated blood lead levels in accordance with the recommendations contained in: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention Advisory Committee on Childhood Lead Poisoning Prevention, *Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention* (2012); Council on Environmental Health, *Prevention of Childhood Lead Toxicity*, Pediatrics, 138(a), e20161493 (2016).

4.1.1. All children shall receive a screening test at one year and again at two years of age, and children 36 to 72 months of age if they have not been screened previously; and

4.1.2. The screening tests shall be recorded in each child's medical record at the health care provider's office. The Office of Maternal, Child and Family Health shall ensure laboratory results received are incorporated in the Immunization Registry within the Lead Module provided by the Bureau for Public Health for health care provider reference. This information shall include the date of screening test, the child's address, the location where the screening test was conducted, which screening test was used, and the physician's name.

4.2. The protocol for confirmation of elevated blood lead levels shall be in accordance with the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention Advisory Committee on Childhood Lead Poisoning Prevention, *Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention* (2012).

§64-42-5. Follow-up Testing and Information.

5.1. In addition to the follow-up testing prescribed in W. Va. Code §16-35-4a, when a child's results are confirmed as an elevated blood lead level, the Bureau for Public Health shall advise pregnant women residing at the same address of the need to be tested as soon as possible.

5.2. The health care provider shall provide all information concerning a child's blood-lead level to the legal parent or guardian and other agencies involved in lead poisoning testing.

5.3. The Bureau shall refer children with elevated blood-lead levels to the following services:

5.3.1. Children with confirmed blood lead levels of greater than or equal to ~~five~~ three and five tenths micrograms per deciliter shall be referred to appropriate programs based on age and concern offered by the Office of Maternal, Child and Family Health in the Bureau, within 10 days of confirmation;

5.3.2. Children with two consecutive blood lead levels of greater than or equal to eight micrograms per deciliter shall be referred to the Bureau for an environmental investigation of the home to identify potential sources of lead within two days of confirmation; and

5.3.3. All children with elevated blood lead levels of greater than or equal to ~~five~~ three and five

tenths micrograms per deciliter shall have a follow-up blood lead level screening test within three months as set forth in the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Recommended Actions Based on Blood Lead Level* (2018); Council on Environmental Health, *Prevention of Childhood Lead Toxicity*, Pediatrics, 138(1), e20161493 (2016); and American Academy of Pediatrics, *Prevention of Childhood Lead Toxicity*, Pediatrics, 145(6) (2020).

§64-42-6. Reporting Requirements.

6.1. The Bureau shall ~~review this program at least every three years and~~ make available to all interested parties a summary of the quarterly testing results, beginning in July of the effective year of this rule.

§64-42-7. Samples Submitted to a Laboratory.

7.1. The health care provider shall submit all blood samples to a laboratory for analysis. Capillary blood samples may be analyzed using an approved Clinical Laboratory Improvement Amendments waived lead testing point of care system.

7.2. When submitting blood samples, the health care provider shall include a laboratory requisition obtained from the Bureau that contains the child's name, address, the county of residence, the name and address of the physician who completed the screening test, and other information requested on the form.

7.3. Laboratories processing blood lead samples for analysis shall electronically submit all required data to the Bureau within seven working days of analysis, or sooner if available in accordance with 64CSR7.

§64-42-8. Confidentiality.

8.1. Records received and information assembled by the Bureau are confidential medical records and ~~shall~~ may not be disclosed except as permitted by law.

8.2. Reports published using statistical compilations relating to childhood lead poisoning may not ~~in any manner~~ identify individual patients, individual addresses, or individual enforcement action, or be reported for such small geographic areas or other categories with few entries that a person could, with other publicly available information, reasonably be able to identify the patients.

§64-42-9. Enforcement Action.

9.1. The Commissioner may investigate all suspected violations of this rule or of W. Va. Code §§16-35-1 *et seq.*, and upon the finding of a violation in connection with this rule, the Commissioner shall initiate appropriate enforcement action.

§64-42-10. Penalties.

10.1. ~~Any~~ A person who violates the provisions of W. Va. Code §16-35-4a or this rule is subject to the penalties provided in W. Va. Code ~~§16-1-17 and~~ §16-35-13.

§64-42-11. Administrative Due Process.

11.1. ~~Those individuals~~ A person adversely affected by the enforcement of this rule desiring a

contested case hearing to determine any rights, duties, interests, or privileges shall do so in a manner prescribed in the Rules and Procedures for Contested Case Hearing and Declaratory Ruling, 64CSR1 and the Administrative Procedures Act, W. Va. Code §29A-5-1, *et seq.*