

WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In This Box

FILED

2001 JUN 11 P 4: 04

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Health, Dep't of Health and Human Resources TITLE NUMBER: 64

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §§16-22B-4 and 16-1-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 83

TITLE OF RULE BEING PROPOSED: Birth Score Program

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 11, 2001 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Regulatory Support - DHHR

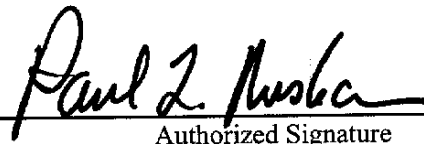
State Capitol Complex

Building 3, Room 201

Charleston, WV 25305

Att'n: Beth Marquart, Director

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

BIRTH SCORE PROGRAM

BRIEF SUMMARY OF THE RULE

This rule establishes that every newborn infant shall be evaluated through the West Virginia Birth Score-Developmental Risk Screen, by procedures approved by the state division of health for the assessment of risk for postneonatal mortality and developmental delays, in an effort to reduce the negative consequences of such risk.

Birth Score Program

Proposed Rules

Statement of Circumstances Which Require the Proposed Rule

This rule has been legislatively mandated by House Bill 2388 that was passed on March 14, 1998. By assessing newborn infants for risk of postneonatal mortality and developmental delays, the negative consequences of such risk may be reduced. By identifying newborn infants at greatest risk for death between the ages of one month and one year, linkages between these infants and physicians for close follow-up during the first year of life may reduce the risk of post neonatal mortality, debilitating conditions, and developmental delays.

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

Type of Rule: X **Legislative** **Interpretive** **Procedural**

Agency: Division of Health
 Department of Health and Human Resources

Address: Building 3, Capitol Complex
 Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost				\$ 296,246	\$ 296,246
Personal Services					
Current Expense				\$ 296,246	\$ 296,246
Repairs & Alterations					
Equipment					
Other					
Revenue					

2. Explanation of above estimates.

Current Expenses

	<u>Federal Share</u>	<u>State Share</u>	<u>Total Costs</u>
Contract with West Virginia University	0	\$262,966	\$262,966
Cost for accelerated visits required for "at risk" children	<u>\$101,674</u>	<u>33,280</u>	<u>134,954</u>
	\$101,675	\$296,246	\$397,920

3. Objectives of this rule:

This rule is establishing the West Virginia birth score program; establishing legislative findings and intent; authorizing the division of health to establish and implement a birth score program which identifies newborn children at high risk for postneonatal mortality, debilitating conditions and developmental delays and refers those children to primary care physicians for subsequent follow-up care; requiring hospitals, birthing facilities, attending physicians and other persons attending a birth to require and ensure that a birth score is determined; authorizing the division of health to provide necessary medical and other needed referrals; establishing penalties for failure to comply with the program; and creation of special fund.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The Bureau for Public Health currently contracts with West Virginia University to provide support for the continuation of a pediatric birth scoring system operated under the auspices of the West Virginia University School of Medicine, Department of Pediatrics. The contract amount for this service for the current fiscal year is \$262,966.

The 2,000 children receiving 2 additional health check ups in the first 6 months of life at the rate of \$58.17 costs the various payors \$232,680. Approximately 58% (of the State's births are to Medicaid moms who subsequently receive Medicaid for their infants for their first year of life; consequently, the cost to the Bureau for Medical Services would be approximately \$134,954. The Federal share would be \$101,674 and the State match would be \$33,280.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

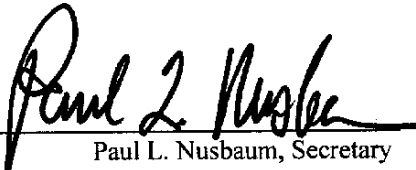
The 840 children receiving 2 additional health check ups in the first 6 months of life at the rate of \$58.17 costs the various payors \$232,680.

C. Economic Impact on Citizens/Public at Large.

A uniform system for all citizens of West Virginia will be implemented. This system will assure that their children are screened and scored for possible birth defects.

Date: June 11, 2001

Signature of Agency Head or Authorized Representative


Paul L. Nusbaum, Secretary
Department of Health and Human Resources

**64 CSR 83
Title 64
Legislative Rules
Bureau for Public Health**

**Series 83
Birth Score Program**

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SECRETARY OF STATE

§64-83-1. General.

1.1 Scope. – This rule establishes the birth score program to identify newborns at risk for postneonatal mortality, debilitating conditions and developmental delays. This rule should be read in conjunction with W.Va. Code §16-22B-1 et seq. The W.Va. Code is available in public libraries and on the Legislature's webpage, <http://www.legis.state.wv.us/>.

1.2. Authority. – W. Va. Code §§16-22B-4 and 16-1-4.

1.3. Filing Date. –

1.4. Effective Date. –

§64-83-2. Application and Enforcement.

2.1. Application. – This rule applies to any newborn born in West Virginia, to the health care provider attending the newborn at birth, birthing hospitals and facilities, the West Virginia University Birth Score Office, and primary care providers.

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

§64-83-3. Definitions.

3.1. Birth Score Program. – A system established by the Bureau for Public Health for assessing newborns shortly after birth.

3.2. Birth Score Developmental Risk Screen. - Medical assessment conducted immediately after birth to identify newborns at greatest risk within the first year of life for postneonatal mortality, debilitating conditions, and developmental delays.

3.3. Commissioner. – The Commissioner of the Bureau for Public Health or his or her lawful designee.

- 3.4. Early Discharge. - Birth admissions lasting twenty-four (24) hours or less.
- 3.5. Health Care Facility. - Any licensed medical facility that offers birthing services.
- 3.6. Health Care Provider. – Physician or licensed midwife present during or immediately after delivery.
- 3.7. High Birth Score. - Newborns who are determined to be at high risk for post- neonatal mortality, debilitating conditions or developmental delays.
- 3.8. Low Birth Score. - Newborns who are determined to be at low risk for post- neonatal mortality, debilitating conditions or developmental delays.
- 3.9. Primary Care Provider (PCP). - A physician, physician's assistant, nurse, nurse practitioner or other licensed medical professional responsible for the infant's health services after discharge from the health care facility.
- 3.10. Total Birth Score. - The sum of the numerical scores of the criteria on the Birth Score Developmental Risk Screen.
- 3.11. Well Child Visits - A comprehensive preventive evaluation of a child's health status to assure the child is meeting physical and developmental milestones according to current national American Academy of Pediatrics standards.

§64-83-4. Purpose and goals.

- 4.1. The birth score program shall identify newborns at greatest risk for:
- 4.1.a. Death between one (1) month and one (1) year of age;
 - 4.1.b. Debilitating conditions;
 - 4.1.c. Developmental delays; and
 - 4.1.d. Newborn hearing loss.
- 4.2. The birth score program shall link newborns identified as high risk with primary care providers and available medical and social services.

§64-83-5. Protocol, Reporting and Referral.

- 5.1. The health care provider shall, except when the parent or guardian objects on grounds of religious belief, determine the total birth score on every newborn shortly after delivery when the birth occurs in a hospital or other licensed health facility. If the

birth occurs at a nonlicensed facility, the infant's primary physician shall determine the birth score within ten (10) days after birth.

5.2. The health care provider or the infant's primary physician shall record or caused to be recorded in the medical record and on the Birth Score Developmental Risk Screen, the total birth score.

5.3. When a health care provider or the infant's primary physician determines a high birth score on a newborn, they shall:

5.3.a. Inform the parents or guardians of the birth score findings upon completion of the scoring; and

5.3.b. Provide the parents or guardian with a copy of the Birth Score Developmental Risk Screen.

5.4. The health care facility will set a schedule with the newborn's established local primary care provider for recommended well child visits at two (2), four (4), eight (8), twelve (12), sixteen (16) and twenty-four (24) weeks of age.

5.5. When the newborn does not have a primary care provider, the health care facility will refer the newborn's parent or guardian to a list of local primary care providers who perform well child visits.

5.6. The health care provider shall send a written copy of the screening results within ten (10) days of the newborn's birth date to the Birth Score Office, West Virginia University Department of Pediatrics, P.O. Box 9214, Morgantown, WV 26506-9214.

5.7. The Birth Score Office shall collect developmental risk /newborn hearing screen data and make referrals to educational, medical, and social support services.

§64-83-6. Program Monitoring.

6.1. The Bureau for Public Health shall:

6.1.a. For each health care facility, keep on file at the Office of Maternal, Child and Family Health a written copy of the procedures that apply to the Birth Score, the Developmental Risk and the Newborn Hearing Screening programs, and the policies regarding early discharge; and

6.1.b. Monitor compliance with the Birth Score Program, taking into account early discharge trends, and will take corrective action in accordance with the policies and procedures already established in the health care facilities.

§64-83-7. Confidentiality.

7.1. Any person who obtains confidential information while implementing W.Va. Code §16-22B-1 et seq. may disclose it only to reporting sources, persons demonstrating a need essential to health related research or care of the infant, or as required by law.

7.2. Any person who obtains confidential information while implementing W.Va. Code §16-22B-1 et seq. shall provide a written statement of confidentiality stating that he or she fully understands the privacy of the information and will maintain it.

§64-83-8. Penalties.

8.1. Any person who violates the provisions of W.Va. Code §16-22B-1 et seq. or this rule is subject to the penalties provided in W.Va. Code §16-1-18.

§64-83-9. Administrative Due Process.

9.1. Those persons aggrieved by the enforcement of this rule may make a written request for a contested case hearing in accordance with the Bureau of Public Health rule, "Rules of Procedure for Contested Case Hearing and Declaratory Rulings," 64CSR1.