

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Bureau for Behavioral Health and Health Facilities TITLE NUMBER: 64

CITE AUTHORITY: W.Va. Code 17A-2-9 and 17C-5A-3

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: 98

TITLE OF RULE BEING PROPOSED: Safety and Treatment Program

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.

Patsy A. Hardy
Authorized Signature

83.20

**TITLE 64
LEGISLATIVE RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 98
SAFETY AND TREATMENT PROGRAM**

§64-98-1. General.

1.1. Scope. -This legislative rule establishes a comprehensive safety and treatment program for persons found in initial and subsequent violation of W.Va. Code §17C-5-1 *et seq.* and §17C-5A-1 *et seq.*

1.2. Authority. --W. Va. Code §§ 17A-2-9 and 17C-SA-3.

1.3. Filing Date. –

1.4. Effective Date.

§64-98-2. General.

2.1. Application -This legislative rule applies to persons involved in the Safety and Treatment Program administered by the Department of Health and Human Resources, Division of Alcoholism and Drug Abuse pursuant to § 17C-5A-3.

2.2. Enforcement -Enforcement of this legislative rule is vested with the Secretary of the Department of Health and Human Resources.

§64-98-3. Definitions.

The following definitions apply in the interpretation and enforcement of this legislative rule.

3.1. Centers _The Community Behavioral Health Centers and Guilds regulated by the Department of Health and Human Resources and contracted by the Department of Health and Human Resources as the provider agency for services relating to the Safety and Treatment Program.

3.2. Code -The Code of West Virginia of 1931, as amended.

3.3. Secretary _The executive officer of the Department of Health and Human Resources appointed by the Governor.

3.4. Department -The Department of Health and Human Resources.

3.5. License _ Any permit issued by the Commissioner of the Department of Motor Vehicles for the purpose of operating a motor vehicle in this state.

3.6. Participant -A person enrolled in the Safety and Treatment Program.

3.7. Program -The Safety and Treatment Program established pursuant to §17C-SA-3.

3.8 Provider -An entity that provides Safety and Treatment Programs pursuant to a grant, an agreement or a Memorandum of Understanding with the Department.

3.9. Sliding Fee Scale -The scale of fees charged by the providers for services rendered over and above the basic Level I Program Safety and Treatment Program.

§64-98-4. Program Responsibilities.

4.1. The Department of Motor Vehicles is responsible for licensure to operate a motor vehicle and any changes to licensure.

4.2. The Department of Health and Human Resources is responsible for establishing a comprehensive safety and treatment program for persons found in violation of W.Va. Code §17C-5-1 *et seq.* and §17C-5A-1 *et seq.* The Department shall fulfill this responsibility by developing a Program and contracting with the Community Behavioral Health Centers and other providers to conduct the Program. The Department is also responsible for ensuring that services rendered through the Program are delivered by competent and qualified professionals. The Department shall first approve any program curriculum used in the program.

4.3. Community Behavioral Health Centers and other providers shall offer and operate the Program under contract with the Department of Health and Human Resources.

§64-98-5. Program Levels of Referral.

5.1. Initial Notification -When a person is notified of the Commissioner of Motor Vehicles' order of license revocation, the person is advised of the procedures for participation in the Program and the conditions to be met before license reinstatement.

5.2. Initial Assessment -The first phase of the Program consists of an enrollment session and a period of assessment, conducted by the Centers, for determining which Program levels are appropriate for each Participant to complete. The assessment shall use:

5.2.a. Objective information such as the Participant's blood alcohol content; various assessment tests such as the Michigan Alcoholism Screening Test (MAST), the Numerical Drinking Profile (NDP) and McAndrews Scale of the Minnesota Multiphasic Personality Inventory; and prior driving under the influence, public intoxication, and other substance abuse related arrests;

5.2.b. Subjective information based on the Participant's problems involving family, employment, education or training, financial, medical, recreational, emotional, legal and substance abuse problems; and

5.2.c. Information on the participant's interpersonal relationships, and his or her own observation of his or her present status; the evaluator's observations of the Participant, and any other significant information that is available.

5.3. Level I, Prevention and Education Component -The Center shall refer a Participant who through the assessment phase is evaluated as not having a significant substance abuse problem to Level I. This level is informational and educational in nature and is intended to create an awareness of the misuse of alcohol and other drugs, particularly as the use relates to the operation of a motor vehicle. The Level I component consists of a minimum of nineteen hours and shall include the following:

5.3.a. Defensive Driving Instruction;

5.3.b. Substance Abuse Education, of which at least one hour shall be an orientation to Alcoholics

Anonymous, Narcotics Anonymous or other similar entity provided by a member of one of those organizations; and

5.3.c. One individual counseling session after the classroom instruction.

5.3.c.1. This session shall be used to evaluate the Participant's need for further services. If the counselor determines in the counseling session that the Participant has not benefited significantly or has demonstrated a lack of involvement, additional prevention and education activities may be required to fulfill the completion criteria for Level I.

5.4. Level II, Intervention and Treatment Component -The Center shall refer a Participant who it considers as having a potential, probable, early stage or middle stage substance abuse problem to Level II of the Program. This level consists of individual or group outpatient counseling on a frequency correspondent to the determined need. The Participant shall Complete Level I, Prevention and Education program. A Participant shall attend meetings of Alcoholics Anonymous, Narcotics Anonymous or other similar entity, verification of attendance shall also be required.

5.5. Level III, Intensive Care Component -The Center shall refer a Participant who is assessed as having a late stage substance abuse problem to Level III. A Participant at this level shall participate in an intensive treatment program which will have total abstinence as its goal. The intensive treatment component consists of residential treatment or partial hospitalization designed specifically for substance abuse treatment. A Participant shall attend meetings of Alcoholics Anonymous, Narcotics Anonymous or other similar entity, verification of attendance shall also be required. Completion of Level I, Prevention and Education and Level II, Intervention Treatment Component for aftercare purposes is also required.

§64-98-6. Staff Qualifications.

6.1. Center Responsibilities -Each Center is responsible for ensuring that the services provided through the Program are delivered by competent and qualified professionals in the field of substance abuse. Each Center shall provide the Department with the names, training and job functions performed of all persons providing services for the Program.

6.2. Assessment, Evaluation and Treatment -A person providing services for the Assessment, Evaluation, and Treatment aspects of the Program shall have at least one year work experience in the field of substance abuse treatment, or have attained the necessary skills through training, education, experience, and supervision.

6.3. Prevention and Education -A person providing services for the Prevention and Education component of the program shall have at least one year of work experience in the field of substance abuse prevention and education and/or treatment or have attained the necessary skills through training, education, experience, and supervision.

6.4. Defensive Driving -A person providing services for the course of defensive driving shall be a qualified instructor.

6.5. Program Coordinator -Each Center shall designate a D.U.I. Program Coordinator whose function is to supervise the performance of the terms of the contract between the Center and the Department. The Program Coordinator shall also work with the Department for the purposes of program development and procedural refinement.

§64-98-7. Program Participant Evaluation.

7.1. Referral Evaluation Report -Based on the information gathered during the initial assessment as described in Subsection 5.2 of this legislative rule, the Center shall make a referral evaluation report on each Participant on the form prescribed by the Department. The Center shall forward each report to the Department.

7.2. Change in Status -The Centers may change a Participant's Program level status following the initial assessment. When a Center changes a Participant's status, it shall notify the Department by submitting a revised Referral Evaluation Report.

7.3. Status Evaluation Report -The Center shall submit a Status Evaluation Report on each Participant to the Department, on the prescribed form, upon completion of the Program.

7.4. Overall Responsibility -By virtue of its legislative mandate relative to the Safety and Treatment Program, overall responsibility for the level and quantity of treatment provided by the Center for any Participant rests with the Secretary.

7.5. Appeal Of Referral -Each Center shall establish procedures for resolving Participant questions concerning referral level and status evaluation.

§64-98-8. Fiscal Procedures.

8.1. Program Enrollment Fee -The Secretary fee for enrollment in the Program is established by the Secretary. This fee covers the provision of the Level I Prevention and Education treatment component as described in Subsection 5.3 of this legislative rule. The Participant shall pay the fee upon enrollment at the Center, unless he or she is found to be indigent.

8.2. Additional Services -The cost for all counseling and treatment services provided in addition to the Level I component as described in Subsection 5.3 of this legislative rule is the responsibility of the Participant. Each Center shall charge for additional services in accordance with its prevailing fee schedule for comparable services. If a Participant cannot afford the full fee for additional services, a sliding fee scale shall be used.

8.3. Indigent Participant -A person who is determined to be indigent by the Center may be eligible for a waiver of the fees or a reduction in the fees for the participation in the Program.

8.3.a. A person (or Participant) with family income equal to or below one hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent, qualifying that person for sponsorship for the full amount of fees related to enrollment at any level and participation in Safety and Treatment programming which is not covered by private or public third-party sponsorship, and which is not eligible for a Community Behavioral Health Center's charity care funds;

8.3.b. A person (or Participant) with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent, qualifying for discounts from fees related to enrollment fees and participation in the Program in accordance with the established sliding fee schedule and policies regarding individual financial circumstances;

8.4. Intervention, Treatment component and Intensive Treatment Component: The Safety and Treatment provider shall make the determination on indigence for purposes of treatment in accordance with its policy for charity care.

8.5. Department of Health and Human Resources Safety and Treatment Fund -The Center shall forward the enrollment fee collected from each Program Participant to the Department for deposit in the Department of

Health and Human Resources Safety and Treatment Fund. The Department shall reimburse the Center for each Participant it has enrolled.

§64-98-9. Reinstatement of License.

9.1. Completion of Program – In order to successfully complete the program, the participant shall complete the prescribed level or levels of treatment, receive a favorable Status Evaluation Report and pay all applicable costs for program participation.

9.2. Payment of Reinstatement Fees -The Program Participant must satisfy all financial obligations to the Department and the Division of Motor Vehicles before the reinstatement of his or her license will be considered.

9.3. Final Decision -Subject to the provisions of § 17C-5A-3(b)(2), the final decision on license reinstatement is vested with the Commissioner of Motor Vehicles.