

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Higher Education Policy Commission TITLE NUMBER: 133

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §§18B-1-6 and 18C-3-1

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 34

TITLE OF RULE BEING AMENDED: Medical Student Loan Program

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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 September 3, 2008 AT 5:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Higher Education Policy Commission  
Attention: Mr. Dennis Taylor

1018 Kanawha Boulevard East  
Suite 700

Charleston, WV 25301

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

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TITLE 133  
LEGISLATIVE RULE  
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

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SERIES 34  
MEDICAL STUDENT LOAN PROGRAM

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§133-34-1. General.**

- 1.1. Scope. -- This rule promulgates policy and procedure regarding the medical student loan program.
- 1.2. Authority. -- W. Va. Code §§18B-1-6 and 18C-3-1.
- 1.3. Filing Date. -- ~~April 26, 2005.~~
- 1.4. Effective Date. -- ~~April 27, 2005.~~
- 1.5. Modification of Existing Rule: Title 133, Series 34, Procedural Rule of the West Virginia Higher Education Policy Commission dated ~~September 6, 2002.~~ April 27, 2005.

**§133-34-2. Purpose.**

- 2.1. The legislation addresses three (3) policy issues: The rising cost of medical education, continued access to medical education by West Virginians and those likely to remain in West Virginia after graduation who demonstrate financial need, and the geographic and specialty maldistribution of physicians. The loan program partially offsets the education and general fees paid by medical students to assure continued access to medical school for qualified West Virginians and those likely to remain in West Virginia after graduation who demonstrate financial need. The loan program also provides loan forgiveness incentives to encourage physicians to practice in designated medically underserved areas or in medical specialties in which there is a shortage of physicians.

**§133-34-3. Administration.**

- 3.1. The Vice Chancellor for Administration shall be responsible for overseeing the Medical Student Loan Program.
- 3.2. The West Virginia University School of Medicine, the Marshall University School of Medicine, ~~or~~ and the West Virginia School of Osteopathic Medicine shall be responsible for awarding loans to medical students at their respective institutions and for collecting loan payments.

**§133-34-4. Education and General ~~F~~ Fees Dedicated to Program.**

- 4.1. The Higher Education Policy Commission (Commission) annually, or at such other times as it may desire, shall set minimum amounts of medical students' education and general fees that the state's three (3) medical schools must reserve for providing

~~the Medical Student Loan Program~~ medical student loans at their respective institutions; and shall assess each medical school a fee to offset the Commission's costs for administration and oversight of the program, ~~and shall set the maximum loan amount available annually.~~

~~4.2. Effective July 1, 2004, the following minimum amounts from the education and general fees paid by medical students shall be reserved at the respective medical schools for the purpose of making medical student loans:~~

<del>West Virginia University Medical School</del>	<del>_____</del>	<del>\$500,000</del>
<del>West Virginia School of Osteopathic Medicine</del>	<del>_____</del>	<del>\$200,000</del>
<del>Marshall University Medical School</del>	<del>_____</del>	<del>\$100,000</del>

~~4.3. Effective July 1, 2004, the Commission shall assess the respective medical schools the following amounts to offset the Commission's costs for administration and oversight of the program:~~

<del>West Virginia University Medical School</del>	<del>_____</del>	<del>\$16,250</del>
<del>West Virginia School of Osteopathic Medicine</del>	<del>_____</del>	<del>\$6,500</del>
<del>Marshall University Medical School</del>	<del>_____</del>	<del>\$3,250</del>

~~4.4. 4.2.~~ Effective July 1, 2004, the maximum annual amount for an individual loan shall be \$10,000.

~~4.5. 4.3.~~ Any unused funds, including ~~E~~education and general fees reserved for the benefit of the ~~m~~Medical ~~s~~Student ~~H~~Loan ~~p~~Program, ~~and any carryover funds remaining at the end of the fiscal year shall not expire or revert, but instead shall carry over forward for use by the institution to provide medical student loans during the subsequent fiscal year.~~

#### **§133-34-5. Eligibility.**

5.1. In order to be eligible for this loan, an applicant must meet the following minimum requirements:

5.1.1. Full-time enrollment in an approved state medical school in a program leading to the degree of Doctor of Medicine (M.D.), or Doctor of Osteopathy (D.O.), provided that the individual has not yet received one of these degrees.

~~5.1.2. West Virginia residency as determined by the institution in accordance with the Commission rule on "Classification of Students for Admission and Fee Purposes."~~

5.1.32. Financial need as determined by the institution's financial aid office.

5.2. A borrower may be eligible for renewal of the loan if:

5.2.1. The borrower remains in good academic standing and makes satisfactory progress in keeping with the institutional policy for awarding Title IV financial aid funds.

~~5.2.2. The borrower remains a resident of West Virginia.~~

~~5.2.3. 5.2.2.~~ The borrower's financial circumstances warrant continuation under the standards established by the institution.

~~5.2.4. 5.2.3.~~ There are available funds sufficient to make the award.

5.3. An applicant may not be in default of any previous student loan.

5.4. Priority for loans shall be given to in-state residents.

**§133-34-6. Application and Selection Process.**

6.1. A student must apply for the award utilizing the institution's standard application process. Typically, this will involve an institutional application and a financial statement. An institution may establish a deadline for applying for the loan.

6.2. Any student applying for a loan must use his or her social security number when submitting an application. The social security number will be used to verify a student's identity, track applications, authorize loans, verify enrollment and good student status, and track fund disbursement and loan repayment. A student who fails to provide a social security number will not be eligible for a loan.

6.3. Each institution shall select recipients of the award. The number of awards will be determined by the availability of funds in this program at each school in any given academic year. Awards will be processed without regard to age, gender, race, disability, national origin, veteran's status or religion.

**§133-34-7. Loan Provisions and Agreement.**

7.1. Loans may be made and award amounts determined annually for each of the number of years required to complete the course of study. The student-borrower may apply for additional loans for each subsequent academic year of medical school, and the institution may, but shall not be obligated to, make loans to a borrower for such academic year or years.

7.2. Before being granted a loan, each applicant shall receive an award notification issued by the institution on behalf of the Higher Education Policy Commission Medical Student Loan Program. Notifications shall include the following common elements:

7.2.1. Budgeted cost of education.

7.2.2. Expected family contribution (where applicable).

7.2.3. Other resources available to meet educational expenses.

7.2.4. Financial need.

7.2.5. Aid awarded reflecting academic periods in which it will be disbursed.

7.2.6. An indication of unmet financial need.

7.2.7. A statement that any and all such loans shall be subject to the terms and conditions specified in a master promissory note.

7.3. The master promissory note shall be an open ended note. All subsequent release of funds shall be recorded on this promissory note.

**§133-34-8. Loan ~~r~~Repayment.**

8.1. A borrower shall be allowed a maximum of ten (10) years to repay the loan (principal and interest). Periods of authorized deferment (approved additional medical training, including internships, residencies, ~~or~~ and fellowships, or required military service, not to exceed five years) are not included as part of the ten-year repayment period. However, the minimum repayment amount shall be no less than fifty dollars (\$50.00) per month.

8.2. The first payment shall not be due and payable until one (1) year following the date that the borrower ceases to be a full-time student at a school of medicine eligible to participate in the Medical Student Loan Program. Payments are not due for periods of authorized deferment.

~~8.3. If the borrower discontinues the study of medicine, loans made together with accrued interest thereon shall be due and payable beginning sixty (60) days from the date of last enrollment.~~

~~8.4.~~ 8.3. There shall be no penalty for early repayment of the loan.

~~8.5.~~ 8.4. The rate of interest charged on all outstanding loans awarded on or after September 7, 2002 shall be the prevailing graduate subsidized Federal Stafford Loan interest rate at the beginning of the repayment period, and interest shall accrue, except for grace periods and periods of authorized deferment, from the beginning of the repayment period.

~~8.6.~~ 8.5. In the event of the borrower's death or permanent and total disability, the unpaid indebtedness balance remaining on the note (principal and interest) shall be cancelled.

**§133-34-9. Loan Forgiveness.**

9.1. A borrower may receive cancellation and forgiveness of the outstanding principal and accumulated interest on the loan in return for the actual performance of full-time service in West Virginia as a physician (M.D. or D.O.) in an approved designated medically underserved area or in an approved designated medical specialty in which there is a shortage of physicians.

9.2. The Commission, ~~in conjunction~~ after consultation with the Bureau for Public Health, shall determine qualifying medically underserved geographic areas and medical specialties in which there is a shortage of physicians. An approved listing of underserved areas and qualifying medical specialties shall be published and

distributed to the financial aid ~~officers~~ offices of each participating state school of medicine. At the borrower's request, additional geographic areas and medical specialties may be considered by the Commission ~~and~~ after consultation with the Bureau for Public Health. Among the criteria are such factors as: ~~Locations~~ where a physician currently in practice will retire creating a shortage or a population shift which will justify additional physicians.

- 9.3. To be eligible for loan forgiveness, the applicant must apply annually for and receive Commission approval for practice in a specific designated underserved area or designated medical specialty. Such approval shall include deferral of loan repayment during the period the practitioner is performing in service authorized for loan forgiveness. The practitioner must notify the lending institution of the date that such practice commences and terminates.
- 9.4. To be eligible for loan forgiveness, the applicant must have Commission approval to practice in a specific designated underserved area or designated medical specialty. In addition, the applicant must subsequently provide evidence to support the fact that full-time physician services were rendered. Such evidence shall be presented on a form provided by the Commission for that purpose. The Commission shall be the authority that grants loan forgiveness. The Commission shall notify the appropriate lending institution of all loan forgiveness which is granted.
- 9.5. The borrower shall be eligible for loan forgiveness only upon application and upon acceptance of duly certified evidence of full-time medical or osteopathic practice in one of the designated medically underserved areas or medical specialties.
- 9.6. The borrower shall receive cancellation ~~and forgiveness~~ of the outstanding principal for sums not to exceed ~~\$5,000~~ \$10,000 per year plus accumulated interest during each period of twelve (12) consecutive months of full-time practice. No forgiveness shall be granted for less than twelve (12) consecutive months of full-time practice.
- 9.7. It shall be the responsibility of the borrower to secure a current list of approved underserved areas and medical specialties. A current list may be obtained from the institution's financial aid office or from the Commission.

**§133-34-10. Forbearance.**

- 10.1. To be eligible for forbearance, a borrower must apply for and receive approval from the institutional financial aid officer. The financial aid officer may grant forbearance for periods of documented disability, unemployment or other economic hardship.
- 10.2 The Vice Chancellor for Administration must be notified by the financial aid officer of all forbearance approvals related to this program.
- 10.3. A borrower is eligible for forbearance for a period not to exceed twelve (12) months at one time.
- 10.4. A borrower may be held responsible for paying a portion of the accrued interest on the loan as a condition for granting forbearance.

10.5. During any period of forbearance, interest shall continue to accrue on the loan. If a borrower does not pay interest during the forbearance period, it will be capitalized at the end of the forbearance period.

10.6. Loan payments shall resume within sixty days of the forbearance end date. The exact amount of monthly payments shall be calculated in accordance with the original loan agreement.

**§133-34-1011. Loan Management.**

~~10.1.~~ 11.1. The institution shall be responsible for notifying students selected to receive loans and for ensuring that borrowers receive the loan award notification and complete the promissory note before disbursement of funds. The institution also shall be responsible for disbursement of any and all funds to students. Disbursements shall usually be made at the beginning of each semester in an amount equal to one-half (1/2) the annual award.

~~10.2.~~ 11.2. An exit interview shall be required by the institution at the time the borrower graduates or otherwise terminates enrollment. At that time, the borrower's rights and responsibilities under the loan fund shall be discussed. Borrowers shall be obligated during the period the loan is active to maintain a current address record with the student loan office of the medical school which provided the loan.

~~10.3.~~ 11.3. The institution shall exercise due diligence in the collection of all loan amounts owed by borrowers.

**§133-34-11.12. Financial Management.**

~~11.1.~~ 12.1. Each institution shall maintain complete and accurate accounting records for all funds received and disbursed under the Medical Student Loan Program, and, upon request, shall make such records available to Commission staff, the Legislative Auditor, or any other independent auditor that the Commission may designate.

~~11.2.~~ 12.2. Receipt and disbursement of funds shall be governed by all applicable state practices and procedures.

~~11.3.~~ 12.3. Each institution shall submit an annual report summarizing all receipts and disbursements of the Medical Student Loan Program. This report will be in such format and contain such detail as the Commission may prescribe, and shall be due no later than July 31 each year.

**Title 133  
Legislative Rule  
Higher Education Policy Commission**

**Series 34  
Medical Student Loan Program**

**SUMMARY OF PROPOSED CHANGES**

**Substantive Changes**

Clarifies that the legislation includes not only West Virginia students, but also students who are likely to remain in West Virginia after graduation. Section 2.1 (proposed)

Deletes the provision that would allow the Higher Education Policy Commission to adjust the maximum loan amount annually. Under the proposed rule, both the maximum annual loan amount and the maximum annual forgiveness amount are set at \$10,000 and would be adjusted through the rulemaking process. Section 4.1

Deletes the provision that applicant must be a resident of the State, but rather priority shall be given to in-state residents, in accordance with W. Va. Code §18C-3-1(c). Section 5.1.2 and Section 5.4 (proposed)

Deletes requirement that a borrower remain a resident of West Virginia to be considered as a renewal applicant. Section 5.2.2 (proposed)

Removes the provision concerning repayment for a borrower who discontinues the study of medicine because it is inconsistent with language in Section 8.2. Section 8.3 (current)

Recognizes permanent and total disability as a reason for loan cancellation. Section 8.5 (proposed)

Indicates that requests for expansion of not only eligible geographic areas, but also eligible medical specialties may be considered. Section 9.2

Increases the maximum loan forgiveness amount from \$5,000 to \$10,000 per annum consistent with House Bill No. 4433 (2008) and clarifies that a borrower may receive \$10,000 in loan forgiveness for each year of full-time practice. Section 9.6

Adds a forbearance section to the proposed rule. Forbearance is to be granted by the institutional financial aid officer and would be available for periods of documented disability, unemployment or other economic hardship. Forbearance is typically available for most student loan programs. Sections 10.1, 10.2, 10.3, 10.4, 10.5 and 10.6 (all proposed)

## **Technical Changes**

Clarifies purpose of medical specialties aspect of loan forgiveness program to align with language in Section 9.2. Section 2.1

Indicates that all three medical schools are responsible for awarding loans and collecting loan payments. Section 3.2

Clarifies that the Commission has authority to set amounts that institutions must reserve for medical student loans and to offset the Commission's administration costs. Section 4.1

Deletes the provisions that identified the minimum amounts that medical schools had to set aside for loans and administrative costs in Fiscal Year 2004. Under both the current rule and the proposed rule, these amounts, which change from year to year, must be approved by the Commission annually. Sections 4.2 (current), and 4.3 (current)

Corrects financial terminology to make clear that not only education and general fees, but also loan repayment amounts, carry forward at the end of the fiscal year and that the institution must use any funds carried forward for medical student loans. Section 4.3 (proposed)

Clarifies that a statement that loans are subject to the terms and conditions contained in the master promissory note appear on award notifications. Section 7.2.7

Clarifies that Medical Student Loan Program interest rates are tied to the prevailing graduate subsidized Federal Stafford Loan interest rate. The Federal Stafford Loan has both subsidized and unsubsidized interest rates. Also clarifies that interest does not accrue during the grace period. Section 8.4 (proposed)

Clarifies that the Bureau of Public Health shall be consulted in determining qualifying medically underserved areas and medical specialties in which there is a shortage of physicians. Section 9.2

Clarifies that the borrower shall be eligible for loan forgiveness if their practice is in a designated medically underserved area. Section 9.5 (proposed)

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: 133-34 - Medical Student Loan Program

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Higher Education Policy Commission

Address: Attention: Mr. Dennis Taylor  
1018 Kanawha Boulevard, East, Suite 700, Charleston, WV 25301

Phone Number: 304-558-4016 Email: dtaylor@hepc.wvnet.edu

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule has no fiscal impact.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: 133-34 - Medical Student Loan Program

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

The rule has no fiscal impact.

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: August 4, 2008

Signature of Agency Head or Authorized Representative

*Cindy Anderson*

**West Virginia Higher Education Policy Commission  
Meeting of August 1, 2008**

**ITEM:** Approval of Revision to Series 34, Medical Student Loan Program

**INSTITUTIONS:** Marshall University School of Medicine, West Virginia School of Osteopathic Medicine, and West Virginia University School of Medicine

**RECOMMENDED RESOLUTION:** *Resolved,* That the West Virginia Higher Education Policy Commission approves amendments to Series 34, Medical Student Loan Program Legislative Rule, for filing with the Secretary of State for a thirty-day public comment period and for forwarding to the Legislative Oversight Commission on Education Accountability at the conclusion of the comment period if no comments are received.

**STAFF MEMBERS:** Dennis Taylor and Jack Toney

**BACKGROUND:**

House Bill 4443, which passed during the 2008 legislative session, increased the annual maximum amount of a medical student loan that may be forgiven from \$5,000 to \$10,000 for each year of service in a medically underserved area or in a medical specialty in which there is a shortage of physicians. To effectuate this change, Commission staff has modified Series 34, the legislative rule regarding the Medical Student Loan Program.

In addition to the rule amendment required by House Bill 4433, staff proposes a number of additional modifications to the existing program rule. These additional modifications have been made in consultation with the financial aid administrators at the state's three medical schools. The proposed amended rule has been distributed to the Presidents, Chairs of the Advisory Councils and other constituents.

Attached is a draft amended version of Series 34 and a summary of the proposed changes. It is recommended that the Policy Commission approve the amended version of Series 34 for filing with the Secretary of State's Office for a thirty-day public comment period. It is further recommended that if no comments are received during the comment period, the rule be submitted to the Legislative Oversight Commission on Education Accountability (LOCEA) for approval and further legislative action.