

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In This Box

FILED

JUL 20 10 45 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Human Services
Bureau for Children and Families TITLE NUMBER: 78

RULE TYPE: Legislative; CITE AUTHORITY WV Code § 49-2B-4

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Child Placing Agencies Licensure

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 August 21, 2000 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

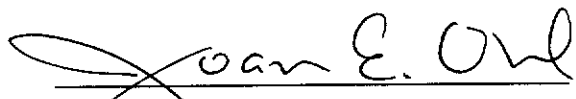
Beth Marquart, Director, Office of Regulatory Support

Department of Health & Human Resources

Capitol Complex - Building 3, Room 201

Charleston, WV 25305

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


Joan E. Ohl, Secretary

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

**Brief Summary of the Rule
Licensing Requirements for Child-Placing Agencies**

This proposed legislative rule repeals and replaces the existing Minimum Licensing Requirements for Child Placing Agencies. The rule contains the requirements that regulate Child Placing Agencies in the State of West Virginia. The Rule assures the health, safety and well-being of children placed in foster or adoptive homes in West Virginia by requiring full compliance with all Rule components. Full compliance with the Rule results in the issuance of a Child Placing License.

Statement of Circumstances Which Require the Proposed Rule

West Virginia State Code 49-2B-4 requires the promulgation, review and revision of the regulations governing the Child Placing License.

The commissioner shall promulgate rules for the purpose of carrying out the provisions of this article, to include the family day care registration program, within one hundred eighty days of the effective date hereof [Acts 1981, c. 44, July 10, 1981] pursuant to the provisions of chapter twenty-nine-a [§ 29A-1-1 et. seq.] of this code: Provided, That any rule promulgated as a result of the enactment of this section in the year one thousand nine hundred eighty-one need not be repromulgated.

The commissioner shall review the rules promulgated pursuant to the provisions of this article at least once every five years, making revisions when necessary or convenient. (1981, c. 44; 1989, c. 26.)

The current rule was written and adopted in 1982.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 78 Licensing Requirements for Child-Placing Agencies

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

Agency: Division of Human Services
 Department of Health and Human Resources

Address: Building 6, Capitol Complex
 Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$0
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					
Revenue					

2. Explanation of above estimates.

Current staff will enforce and monitor the proposed rules. Costs will be incurred in printing and distributing the rules to interested parties. Costs are negligible and will be absorbed in current budget.

3. Objectives of this rule:

The proposed Rule embodies those requirements which regulate Child Placing Agencies in the State of West Virginia. The Rule assures the health, safety and well-being of all children placed in foster or adoptive homes in West Virginia by requiring full compliance with all Rule components. Full compliance with the Rule results in the issuance of a Child Placing License.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

No additional costs will be incurred.

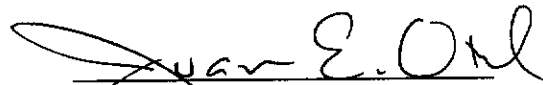
B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

Licensed Child Placing Agencies, as now, will be required to continue their efforts to provide a higher standard of care for children placed in substitute living arrangements. This requires the development and implementation of training for employees and foster and adoptive parents. It also requires adequate record keeping, hiring qualified staff, appropriate quality assurance monitoring, and fiscal responsibility.

C. Economic Impact on Citizens/Public at Large.
None

Date: July 20, 2000

Signature of Agency Head or Authorized Representative


Joan E. Ohl, Secretary
Department of Health and Human Resources

78CSR2

FILED

TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN SERVICES Jul 20 10 42 AM '00

SERIES 2
CHILD PLACING AGENCIES LICENSURE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§78-2-1. General.

1.1. Scope. -- This rule establishes standards and procedures for the licensure of child placing agencies under the provisions of W. Va. Code §49-2B-1 et seq., and related federal and state codes. The W. Va. Code is available in public libraries and on the Legislature's webpage, <http://www.legis.state.wv.us/>.

1.2. Authority. -- West Virginia Code § 49-2B-4.

1.3. Filing Date. -- , 20__.

1.4. Effective Date. -- , 20__.

1.5. Repeal and Replacement of Former Rule. -- This legislative rule repeals and replaces "Minimum Licensing Requirements for Child Placing Agencies in West Virginia," 78CSR2, effective June 1, 1982.

§78-2-2. Application and Enforcement.

2.1. Application. -- This rule applies to agencies that place children in temporary living arrangements.

2.2. Enforcement. -- This rule is enforced by the Secretary of the Department of Health and Human Resources.

§78-2-3. Definitions.

3.1. Aftercare. -- Services to be provided subsequent to a child's or young adult's discharge from placement as identified in the discharge plan.

3.2. Agency. -- A child placing agency.

3.3. Case Record. -- A comprehensive collection of information about a child in the care of a child placing agency.

3.4. Certificate of License. -- A written certificate issued by the Secretary authorizing an individual, corporation, partnership, voluntary association, municipality, county or an agency thereof, to provide specified child placing services for a limited period of time in accordance with the terms and conditions of the certificate and this rule.

3.5. Child. -- A person less than eighteen (18) years of age.

3.6. Child Abuse and Neglect. -- Physical injury, mental or emotional injury, sexual abuse, sexual exploitation, sale or attempted sale or negligent treatment or maltreatment of a child by a parent, guardian or custodian who is responsible for the child's welfare, under circumstances which harm or threaten the health and welfare of the child.

3.7. Child Placing Agency. -- A child welfare organization, other than one operated by the state, established for the purpose of placing children in private family homes or other approved living arrangements for foster care or for adoption.

3.8. Child-specific training. -- Training provided to respond to the specialized needs of a child.

3.9. Community re-entry program. -- A specialized group setting which provides twenty-four (24) hour supervision administered by the agency, developed for children targeted to return to their community.

3.10. Criminal Identification Bureau Record (CIB). -- A fingerprinting process that identifies those who have been arrested or convicted of criminal behavior.

3.11. Crisis Intervention Skills and Techniques.-- Methods used to de-escalate situations that could result in harm to individuals or property.

3.12. Crisis Support. -- The use of crisis intervention skills and techniques.

3.13. Department. -- The West Virginia Department of Health and Human Resources.

3.14. Discharge. -- The termination of a child's affiliation with an agency.

3.15. Discipline. -- A system of rules governing conduct that usually prescribes consequences for the violation of rules.

3.16. Disruption. -- An event that results in the decision that an adoptive or foster care placement will not continue.

3.17. Foster Family Home. -- A private residence used for the residential care of five (5) or less children who are unrelated by blood or adoption to any adult member of the household.

3.18. Goal. -- An expected result or condition that takes time to achieve, is specified in a statement of relatively broad scope, and provides guidance in establishing intermediate objectives directed toward its attainment.

3.19. Guardian. -- A person or persons, as a result of any contract, agreement, or legal proceedings, who has legal custody of a child.

3.20. Governing Board. -- The group of persons that has the administrative control and legal authority to set policy and oversee operations of an agency.

3.21. Incident. -- An act or series of acts which violates reasonable expectations or behavior and has the potential to place a child or others at risk.

3.22. Institutional Investigative Unit. -- A unit of the Department authorized by the Secretary to investigate complaints of child abuse or neglect in an agency.

3.23. Life Skills. -- Tasks, abilities, or knowledge required to perform the activities of daily living.

3.24. Multi Disciplinary Team (MDT). -- A group of representatives from disciplines including medical, child care, law-enforcement, social work, psychology and psychiatry who together identify and treat cases of child abuse and neglect with continuity and follow-up for parents and children.

3.25. Objective. -- An expected result or outcome that is stated in measurable terms, has a specified time for achievement, and is related to the attainment of a goal.

3.26. Passive physical restraint. -- A recognized behavior control method that requires the least amount of direct physical contact to prevent a child from harming himself, herself or others.

3.27. Placement. -- A change of living arrangement, or the ongoing care of a child in an adoptive or foster home, group facility, or other approved living situation.

3.28. Placement Agreement. -- A written document signed by the child's parent or guardian and a representative of the agency, that specifies the terms of the child's placement.

3.29. Plan of Correction. -- A written agreement between the Department and an agency, approved prior to implementation, that outlines the steps an agency will take to correct deficiencies identified by the Department through an inspection or the investigation of a complaint.

3.30. Policy. -- A statement of the principles that guide and govern the activities, procedures and operations of a program.

3.31. Procedures. -- The methods by which a policy is carried out.

3.32. Program. -- A system of services provided to those who use the agency.

3.33. Psychotropic Medication. -- Drugs that affect the mind, mood, behavior, or other mental processes.

3.34. Respite Care. -- Alternative short term care.

3.35. Restraint. -- Restriction of a child's freedom of movement as a behavior control means.

3.36. Rules. -- A set of requirements issued by the Secretary to regulate child placing agencies.

3.37. Secretary. -- The Secretary of the Department of Health and Human Resources or his or her designee.

3.38. Service Plan. -- A comprehensive, time limited, goal oriented, individualized plan based on a thorough evaluation of the child's needs that describes the services, program, treatment and educational needs of a child in care.

3.39. Statement of Child Abuse or Neglect History Form. -- A document signed by a prospective employee or prospective foster or adoptive parent granting permission to conduct a search of Department records related to their involvement in child abuse or neglect allegations, or other investigations documented by the Department.

3.40. Statement of Criminal Record. -- A signed declaration by a prospective employee or prospective foster or adoptive parent of his or her arrests or convictions.

3.41. Transitional living. -- A supervised living arrangement developed to assist children or young adults in the custody of the Department in acquiring skills and competencies to become independent.

3.42. Universal Precautions -- A collection of medically related behaviors, procedures, and protocols designed to minimize the risk of disease transmission and contamination.

3.43. Variance. -- A written declaration by the Secretary that a certain requirement of this rule may be satisfied in a manner different from the manner set forth in the rule.

3.44. Waiver. -- A written declaration by the Secretary that a certain requirement may be treated as inapplicable in a particular circumstance.

3.45. Young Adult. -- A person not less than eighteen (18) years of age and not more than twenty-one (21) years of age.

§78-2-4. Licensing Information and Provisions.

4.1. Child Placing Licensing Requirements.

4.1.a. Before establishing, operating, or accepting children for placement in the State of West Virginia, an agency other than one operated by the state, shall obtain a license from the Secretary.

4.1.b. A regular license shall be valid for two (2) years from the date of issuance, unless revoked or modified to provisional status.

4.1.c. A license shall be valid only for the agency named in the application and shall not be transferable.

4.1.d. When the ownership of an agency changes, the new owner shall apply for a license and shall not operate until a provisional license is issued.

4.1.e. An agency shall post the license in a conspicuous place at its principal place of business.

4.2. Application Procedures for a License.

4.2.a. To apply for a license an agency shall submit a completed application obtained from the Department and the following additional written information:

4.2.a.1. Documentation of the legal authority authorizing the organization of the agency;

4.2.a.2. A list of the members of the governing board and employees of the agency;

4.2.a.3. The agency's mission statement, including a description of the involvement of biological families in supporting the health and welfare of their child;

4.2.a.4. An operating budget for the first fiscal year of operation and documentation of funds in escrow or a credit line equal to the operating budget projected for a six (6) month period;

4.2.a.5. A statement from an independent certified public accountant (CPA) that proper accounting procedures, including an annual audit from a CPA, are in place for the agency;

4.2.a.6. Proof of liability and fire insurance;

4.2.a.7. A copy of the agency's administrative manual;

4.2.a.8. The packet of forms that will be used to compile a complete case record for children placed, foster or adoptive parents, the home review process, and employees of the agency;

4.2.a.9. The orientation training curriculum for foster and adoptive parents;

4.2.a.10. The agency's employment policies, including detailed job descriptions and the hiring plan;

4.2.a.11. A plan for the training, supervision, and evaluation of employees of the agency;

4.2.a.12. Information on current agency employees; and

4.2.a.13. The fee schedule and procedures for payment of fees to foster and adoptive parents.

4.2.b. The agency shall be subject to an investigation that includes but is not limited to:

4.2.b.1. Evaluation of the quality of the program, the proposed services, and the agency's ability to carry out them out effectively in the best interest of the children to be served;

4.2.b.2. Complete background information on applicant and principal owners, including a financial statement, a physical exam within six (6) months of application, and character references;

4.2.b.3. A criminal investigation bureau report for each applicant, owner and employee of the agency; and

4.2.b.4. A current physical exam report for each employee of the agency.

4.3. Amendment of a License.

4.3.a. When implementing a new service or changing a program, an agency shall submit an application for a proposed amendment to the license.

4.4. Issuance of a Provisional License.

4.4.a. The Secretary may issue a provisional license to an agency when:

4.4.a.1. There is insufficient information or program time for an agency to demonstrate compliance with this rule;

4.4.a.2. An agency makes an amendment to an application; or

4.4.a.3. A licensed agency is temporarily unable to demonstrate compliance with this rule and has submitted a plan of correction approved by the Secretary.

4.4.b. A provisional license shall expire six (6) months after the date of issuance and may be reissued no more than two (2) consecutive times.

4.5. Renewal of a License.

4.5.a. An agency shall submit a renewal license application form to the Secretary not less than sixty (60) days prior to the expiration of the current license, and additional information requested to show continuing compliance with the provisions of W. Va. Code §49-2B-1 et seq. and this rule.

4.5.b. The Secretary shall not renew the license when an agency is unable to demonstrate compliance with this rule within eighteen (18) months of the provisional license issuance.

4.6. Revocation of a License.

4.6.a. The Secretary may revoke an agency's license based on failure to maintain compliance with the provisions of W. Va. Code §49-2B-1 et seq., the requirements of this rule, the terms and conditions of its license and any plan of correction.

4.6.b. When the Secretary determines that an agency's operation constitutes a risk of harm to a child placed by that agency, he or she shall issue an order of closure terminating operation of the agency.

4.6.c. When the Secretary has revoked a license, an agency shall not operate pending administrative or judicial review, or without a court order.

4.6.d. When a license is revoked by the Secretary, he or she shall immediately direct the placement of children in the care of that agency into alternative care.

§78-2-5. Inspections, Complaints, Plans of Correction and Waivers.

5.1. Inspections.

5.1.a. An agency shall permit the Secretary unrestricted access to the agency to conduct announced and unannounced inspections of all aspects of its operation and premises.

5.1.b. An agency shall permit review of an agency's case records, corporate and financial records, board minutes and employment files as desired during an inspection.

5.1.c. An agency shall permit access to agency employees, members of the governing board and consumers receiving services from the agency as desired during an inspection.

5.2. Investigation of Complaints.

5.2.a. An agency shall provide all information requested by the Secretary and the Institutional Investigative Unit in the investigation of a complaint.

5.2.b. An agency's internal investigation shall be limited to ensuring the safety of the children in placement.

5.2.c. For a complaint alleging abuse or injury to a child in placement by an employee, an agency shall remove the employee and discontinue the employee's contact with the children until an investigation is completed and a determination is made.

5.2.d. For a complaint alleging sexual abuse or physical injury to a child in placement by a foster or adoptive parent, an agency shall require immediate removal of the foster or adoptive children in that home to other appropriate care, and the agency shall ensure that the foster or adoptive parents discontinue contact with the children until an investigation is completed and a determination is made.

5.3. Plan of Correction.

5.3.a. After a complaint investigation, the Secretary may require an agency to submit a plan of correction within thirty (30) days of the date of receipt of the written summary.

5.3.b. An agency shall not implement a proposed plan of correction prior to approval by the Secretary.

5.3.c. Within ten (10) days of notification of the Secretary's approval of a plan of correction, an agency shall implement the plan, unless the approved plan specifies otherwise.

5.3.d. When the Secretary does not approve a proposed plan of correction, an agency shall submit another plan of correction within 7 (seven) working days.

5.4. Waivers and Variances.

5.4.a. An agency shall comply with the provisions of West Virginia Code §49-2B-1 et seq., the requirements of this rule, terms of its licensure and any plan of correction, unless a written waiver or variance has been granted by the Secretary.

5.4.b. An agency's written request for a waiver or variance from the Secretary shall include:

5.4.b.1. The specific requirement of this rule requested to be waived or varied; and

5.4.b.2. The reason or reasons for seeking a waiver or variance.

§78-2-6. Governance.

6.1. Administrative Manual.

6.1.a. An agency's policies and detailed plan of operations, including the dates of implementation, shall be written in an administrative manual that is available to employees.

6.1.b. An agency shall operate in accordance with its policies and plan of operations contained in the administrative manual.

6.1.c. Prior to applying for license renewal, an agency shall review the administrative manual to ensure continued compliance with this rule.

6.1.d. Employees shall have the opportunity to participate in the administrative manual review.

6.2. Legal Operating Authority.

6.2.a. An agency shall establish proof of the legal authority for the operation of an agency by proof of a certificate of association or incorporation issued by the West Virginia Secretary of State confirming that an agency is organized to do business in the state and is in good standing.

6.2.b. An agency shall have its charter, bylaws, partnership agreement, articles of association or incorporation or other documentation available for inspection at its principal place of business, including complete information about the owners, officers, and governing board.

6.3. Governing Board.

6.3.a. An agency shall have a governing board or other supervisory structure whose responsibilities include:

6.3.a.1. Setting policy, defining and overseeing services, and being legally accountable for the operation of an agency;

6.3.a.2. Implementing a statement of purpose that sets forth an agency's goals and objectives, and defines the services and programs to be offered to meet the goals and objectives;

6.3.a.3. Developing the policies and procedures relating to the operation of its services and programs;

6.3.a.4. Overseeing procedures to maintain and ensure compliance with the provisions of West Virginia Code §49-2B-1 et seq., the requirements of this rule, and the terms of a license or plan of correction.

6.3.b. The governing board shall meet at least quarterly and keep a permanent written record of the minutes of all meetings of the board and its committees.

6.3.c. The governing board shall appoint a full-time executive director to manage the daily operations of an agency.

6.3.d. Before changing an executive director, the governing board shall notify the Secretary in writing.

6.3.e. The governing board shall conduct an annual evaluation of the executive director and direct any necessary disciplinary actions regarding his or her job performance.

6.3.f. No employee, member of an employee's family, or an employee of a public agency that regulates, purchases the services of, or is responsible for placement decisions, shall serve on the governing board of the agency.

6.4. Standards of Ethical Conduct.

6.4.a. An agency shall have written standards of ethical conduct for its governing board and the employees.

6.4.b. An agency shall not misrepresent or operate a service or program in any way that is misleading, deceptive or illegal.

6.5. Confidentiality.

6.5.a. Anyone who obtains confidential information while implementing W. Va. Code §49-2B-1 et seq. may disclose it only to persons demonstrating a need that is essential to this rule or as required by law.

6.5.b. An agency shall maintain the confidentiality of all records in accordance with the provisions of W. Va. Code §49-7-1 and other applicable laws.

6.5.c. An agency that maintains records on computer disks or by other electronic storage means shall secure them against loss, tampering, or unauthorized use in accordance with the provisions of West Virginia Code §61-3C-1 et seq.

6.5.d. An agency shall include in the administrative manual the policy and procedures for the disclosure, maintenance and security of its records.

6.5.e. An agency shall provide specific training for employees, foster parents, and adoptive parents on policy and procedures for confidentiality and information disclosure.

6.5.f. An agency shall obtain the written consent of the child's biological parents or guardian before a child may participate in a publicity event for an agency.

6.5.g. An agency shall use any photographs, audio or video recordings, or statements of a child in placement only in a manner that respects and promotes the best interests of the child and with permission of the child's biological parent or guardian.

6.5.h. An agency shall secure records against loss, tampering, or unauthorized use by maintaining records in an appropriate storage space and by establishing a protocol for restricting access to records to authorized employees.

6.5.i. An agency shall delete an individual's name and other identifying information when its disclosure may violate the right of privacy.

6.5.j. An agency shall delete an individual's name and other identifying information when using it for educational or research purposes.

6.5.k. When an agency ceases operation, it shall have a procedure for the secure storage or disposition of all of its records.

6.6. Records. An agency shall maintain accurate records for the following:

6.6.a. Children in Placement. Each child's or young adult's record shall include:

6.6.a.1. The child's name, social security number, sex, race, religion, birth date and birthplace;

6.6.a.2. An itemized list of the documents in the record that are required to be maintained by this rule, and the date that each document was received and completed;

6.6.a.3. A current photograph that is to be updated annually;

6.6.a.4. The name, address, telephone number and marital status of the child's biological parents or guardian;

6.6.a.5. The names, addresses, and telephone numbers of the foster or adoptive parents where the child is placed, including the dates of placement and removal;

6.6.a.6. The date of placement, name, address and telephone number of the referring agency, the names of the placing worker and his or her supervisor, and an emergency contact's name and telephone number;

6.6.a.7. The names, addresses, and telephone numbers of the medical and other professional persons directly involved in providing ongoing care for the child;

6.6.a.8. Information about the child's allergies, medical conditions or current prescribed medications;

6.6.a.9. The name, address and telephone number of the school, the name of the primary teacher or other school contact person, or the name, address and telephone number of the child's employer;

6.6.a.10. Information from the placing worker who referred the child to an agency, including:

6.6.a.10.A. The family assessment and social summary;

6.6.a.10.B. The current legal custody status;

6.6.a.10.C. A list of prior placements with dates and summaries of the discharges;

6.6.a.10.D. A copy of the birth certificate or other verification of a birth date; and

6.6.a.10.E. Complete education, progress and health records;

6.6.a.11. The placement agreement;

6.6.a.12. Consent forms signed by the biological parents or guardian authorizing the agency to provide all necessary services and care; and

6.6.a.13. An individualized strength based assessment that includes all service and treatment plans, casework activities, counseling reports, special incident reports and an aftercare plan.

6.6.b. Foster and Adoptive Parents. Each record for them shall include:

6.6.b.1. An itemized list of the documents required to be maintained by this rule, and the date that each document was received and completed;

- 6.6.b.2. The names, birth dates, social security numbers and schools or work places for each household member;
- 6.6.b.3. The address, telephone number and directions to the home;
- 6.6.b.4. The date and conditions of approval as foster or adoptive parents;
- 6.6.b.5. A list of all placements with the child's name, dates of placement and removal, and a removal summary statement;
- 6.6.b.6. Documentation and verification of the financial status, marital status, medical examination, and a written report of the interviews with the references;
- 6.6.b.7. A narrative report of the initial home study, annual home reevaluation and recertification;
- 6.6.b.8. A letter of approval or denial from an agency including terms and conditions of the approval or denial and any other written agreements or memoranda of understanding;
- 6.6.b.9. Documentation of orientation training and continuing training as required under this rule;
- 6.6.b.10. A written statement of acknowledgment by the foster or adoptive parents that they have received a copy of the policies and procedures of an agency regarding the care and placement of a child;
- 6.6.b.11. A completed Statement of Criminal Record form, the CIB report, and any approved waivers from the Secretary;
- 6.6.b.12. A completed "Statement of Child Abuse or Neglect History" form;
- 6.6.b.13. Special incident reports, investigations of child abuse or neglect allegations, noncompliance with an agency's policies or procedures or the requirements of this rule;
- 6.6.b.14. Plans of correction; and
- 6.6.b.15. The date of closure and closure summary report.
- 6.6.c. Employees. Each record for an employee shall include:
 - 6.6.c.1. The employee's application for employment or a resume;
 - 6.6.c.2. The employee's position, title, job description, date of hire and date of separation from employment;
 - 6.6.c.3. Three (3) letters of reference, two (2) of which shall be professional or educational, to be obtained before an employee is hired;
 - 6.6.c.4. Documentation of credentials and certifications;
 - 6.6.c.5. The employee's emergency notification information;

6.6.c.6. A health assessment, including a physical examination, an immunization record, a tuberculosis test with a negative result performed within three (3) months of the date of employment, and a report of any health related limitations or communicable diseases that may impair his or her ability for the job;

6.6.c.7. A job performance evaluation completed at three (3) months and at six (6) months, and copies of subsequent annual evaluations;

6.6.c.8. Reports of any actions or incidents relating to employment;

6.6.c.9. Verification of completion of required training, including information on the course title, date and hours of instruction, and name of instructor;

6.6.c.10. A completed "Statement of Criminal Record" form, the CIB report and any approved waivers from the Secretary;

6.6.c.11. A Completed "Statement of Child Abuse or Neglect History" form;

6.6.c.12. Acknowledgment of receipt of the agency's employee manual; and

6.6.c.13. A notice of resignation or termination from the agency.

6.6.d. Biological Parents. Each record for them shall include:

6.6.d.1. The names, addresses, telephone numbers, dates of birth, social security numbers and marital status of the biological parents;

6.6.d.2. Description of all services and programs provided to parents;

6.6.d.3. Information regarding status of parental rights including consent to adopt, determination of paternity, relinquishment of parental rights, court orders, and revocation of consent to adopt; and

6.6.d.4. Written agreements and authorized releases regarding the extent of information disclosure between the biological parents and their child.

6.7. Operating Oversight.

6.7.a. Quality Assurance Program. An agency shall have a written protocol for quality assurance that monitors and evaluates the agency services and programs and includes:

6.7.a.1. Policies and procedures necessary to maintain the highest quality care for the children in care and includes employee and client participation in the quality assurance program;

6.7.a.2. Policies and procedures for correcting a practice of noncompliance with the provisions of W. Va. Code §49-2B-1 et seq. and this rule; and

6.7.a.3. An annual written evaluation of the agency's effectiveness including a review of the following:

6.7.a.3.A. The goals, objectives and priorities;

6.7.a.3.B. The organizational structure, services and programs;

6.7.a.3.C. The number of referrals received and a list of children placed in each service, and the number of referrals denied by an agency and the reasons for those denials;

6.7.a.3.D. The number of children placed by the agency, and the number referred to another placement;

6.7.a.3.E. The number and nature of grievances filed and of accidents or incidents reported;

6.7.a.3.F. The number of times a child has been transferred from one placement to another and the reasons for each transfer;

6.7.a.3.G. The number of discharges, reasons for each and where each child was placed upon discharge;

6.7.a.3.H. The number of children placed in permanent foster care and adoption.

6.7.a.3.I. The number of employee terminations and the reasons for them;

6.7.a.3.J. The number, nature, and reasons for the use of passive physical restraints by an agency in its services or programs; and

6.7.a.3.K. The number and nature of complaints, investigations, and resulting plans of correction.

6.7.b. Emergencies and Incidents. An agency shall have an emergency telephone system available twenty-four (24) hours a day, seven (7) days a week, and have procedures in place for:

6.7.b.1. Reporting an allegation of abuse or neglect to the director, the Institutional Investigative Unit, the placing worker and the child abuse hotline;

6.7.b.2. Reporting an emergency or an incident of harm, abuse or neglect, a suicide attempt, suspected criminal activity, juvenile delinquent activity, a medical emergency, a death, or suspected use of illicit substances;

6.7.b.3. Identifying and reporting a child who is absent without leave to the biological parents or guardian, the supervisor, placing worker, child abuse hotline, and a law enforcement authority within twenty-four (24) hours;

6.7.b.4. Removing the child from the present location and from further contact with the alleged adult offender until an investigation is complete, obtaining medical care and notifying law enforcement;

6.7.b.5. Writing a report of the emergency or incident to the director within forty-eight (48) hours of the date of the emergency or incident, that includes a complete description of the occurrence, the date and time it occurred, names of the individuals involved, precipitating factors, statements of witnesses, immediate actions taken by employees or other persons and other relevant information concerning the incident;

6.7.b.6. Changing the child's service plan or changing policy and procedures at the recommendation of the Secretary following an emergency or incident; and

6.7.b.7. Training employees and foster or adoptive parents in the protocol for emergencies and incidents during orientation.

6.7.c. Universal Precaution Policies and Procedures. An agency shall train employees and foster or adoptive parents on the policies including:

6.7.c.1. The prevention, recognition and treatment of infectious and communicable diseases, including sexually transmitted diseases; and

6.7.c.2. The risks of exposure to infectious agents, materials and instruments, and the control and disposal of them.

6.7.d. Noncompliance with an Agency's Policies. An agency's protocol shall:

6.7.d.1. Identify when employees and foster or adoptive parents are found to be in substantiated noncompliance with its policies and procedures that require a plan of correction or that provide grounds for suspension, dismissal, or closure; and

6.7.d.2. Establish time limits on the plan of correction and provide for its monitoring.

§78-2-7. Staffing Process.

7.1. Staffing Plan.

7.1.a. An agency shall have a staffing plan to provide for the effective implementation of its services and programs that includes a job description detailing the responsibilities, qualifications, and supervisory chain of command for each position in the agency.

7.1.b. Each separate service or program shall have a designated supervisor.

7.1.c. The staffing plan shall set a policy for the ratio of supervisors to employees based on the education and experience level of the supervisory position that can be adjusted for part-time supervisors or inexperienced employees, to ensure adequate guidance and support for each employee.

7.1.d. The staffing plan shall include a policy on case load size and the frequency and nature of contact with children.

7.1.e. The staffing plan shall be revised as needed to reflect changes in services and programs.

7.2. Employment Policies. An agency shall have written employment policies that include:

7.2.a. A statement that an agency is a nondiscriminating employer with regard to race, color, creed, religion, sex, national origin, disability, age or marital status;

7.2.b. Information on employment benefits including sick leave, vacation time and holidays;

7.2.c. Information on probationary periods and tenure provisions, if applicable;

7.2.d. Termination procedures, including resignation, retirement, suspension, layoff and dismissal;

7.2.e. Information on the liability insurance coverage provided by an agency;

7.2.f. A requirement that all employees complete a Statement of Criminal Record form and a CIB records check before employment;

7.2.g. A procedure for an immediate suspension upon any felony or misdemeanor indictment for an offense against a person, public indecency, or violation of the Uniform Controlled Substances Act, W. Va. Code §60A-1-1 et seq., until the charges are resolved, and a requirement for the employee to notify the director of any criminal indictment within twenty-four (24) hours;

7.2.h. A policy on the Statement of Child Abuse or Neglect History form stating:

7.2.h.1. Upon employment, employees shall sign and date a statement that defines child abuse or neglect, as defined in subsection 3.6. of this rule, and outlines the employee's responsibility to report immediately any suspected incident of child abuse or neglect to the executive director or his or her designee, to the Institutional Investigative Unit, and to the Child Abuse Hotline, 1-800-352-6513, in accordance with W. Va. Code §49-6A-1 et seq.; and

7.2.h.2. An employee who is alleged to have sexually abused or otherwise injured a child shall be immediately suspended from working with any child in placement pending the outcome of the investigation.

7.2.i. A general code of conduct policy on the relationship between employees, a child in placement and his or her family including provisions:

7.2.i.1. That contact be case-related only as described in the child's service plan, and continue only as specified in the plan; if a child who has been discharged from the program initiates contact with an employee, the employee shall report the nature of the contact to the director or his or her designee within twenty-four (24) hours;

7.2.i.2. That excursions are case-related only and preferably, involve another adult or child;

7.2.i.3. That a child shall not stay overnight in the home of an employee, and that any other daytime home visit, including a holiday, shall have prior documented approval from the child's guardian and the agency director that states the purpose, duration and names of those who will be present during the contact;

7.2.i.4. For gift giving among employees, the children and the families;

7.2.j. A policy that employees applying to be foster or adoptive parents shall:

7.2.j.1. Not be considered for foster or adoptive parenting by the agency that employs them, but before consideration for approval by another agency, the employing agency's director shall provide a reference; and

7.2.j.2. Not be supervised by the agency that employs them if a foster or adoptive child is placed in the employee's home;

7.2.k. A grievance procedure for employees; and

7.2.l. A policy on tobacco, alcohol, and drug use by employees.

7.3. Employee Manual. An agency shall have a manual of policies and procedures, revised for legislative changes or at the direction of the Secretary, to be provided to each employee upon employment and to each applicant upon request, that includes:

7.3.a. The information and documentation required under this rule; and

7.3.b. The date of implementation, review or revision.

§78-2-8. Employee Requirements.

8.1. Qualifications. An agency shall employ individuals whose education, training, experience and personal qualities contribute to the effective implementation of the program and the maximum health and safety of children in placement, and have the following qualifications of each position.

8.1.a. The Executive Director shall have a minimum of:

8.1.a.1. A Master's Degree in a human services field and five (5) years of experience in the human services field; or

8.1.a.2. A Bachelor's degree in a human services field and seven (7) years of experience in the human services field.

8.1.b. Administrative and Supervisory employees, including the Assistant Director, Program Director, and Case Management Supervisor shall have:

8.1.b.1. A valid West Virginia professional license in their fields; and

8.1.b.2. A Master's degree in a human services field and two (2) years of experience in a human services field, at least one (1) year of which is in child welfare services; or a Bachelor's degree in a human services field, three (3) years of experience in a human services field, at least one (1) year of which is in child welfare services.

8.1.c. Clinical and Therapeutic employees, including Physicians, Counselors, Clinical or Certified Social Workers, and Psychologists shall have valid West Virginia professional licenses in their fields and shall operate within the scope of their practice under W. Va. Code Chapter 30, Articles 3, 14, 21, 30 or 31.

8.1.d. Case Managers and Homefinders shall have:

8.1.d.1. Valid West Virginia Board of Social Work Examiners licenses; and

8.1.d.2. A Master's degree in a human services field and one (1) year experience in child welfare services; or a Bachelor's degree in a human services field and three (3) years of experience in child welfare services; or

8.1.d.3. As a substitute for the experience requirements, supervision by an employee that meets the requirements in 8.1.b. of this rule that includes the supervisor conducting a minimum of two (2) case-related, in person meetings per month and approving all of the supervisee's paperwork for one (1) year.

8.1.e. Para-Professional employees shall have:

8.1.e.1. A high school diploma or GED and be at least twenty-one (21) years of age;

8.1.e.2. Training and supervised practice during the first six (6) months of employment as prescribed in this rule; and

8.1.e.3. If they provide direct services to clients, in addition to the general required training and supervised practice, completed client-specific training on the services they provide and have documentation from the training supervisor that they are competent to deliver the services.

8.2. Training and Development. An agency shall have a comprehensive plan for employee orientation, ongoing training, development and supervisory review, including performance and program evaluations.

8.2.a. Orientation Training. An agency shall require that all employees involved in child placing services within three (3) months of employment, complete a minimum of forty (40) hours of orientation training in areas including:

8.2.a.1. The agency philosophy, goals and objectives;

8.2.a.2. Overview of the agency's operations;

8.2.a.3. Licensing rules and legal aspects of substitute care;

8.2.a.4. Service planning process;

8.2.a.5. Interviewing techniques;

8.2.a.6. Conflict de-escalation and conflict resolution; and

8.2.a.7. Crisis intervention and methods of passive restraint.

8.2.b. First Aid and CPR Training. An agency shall require that all employees within the first three (3) months of employment receive First Aid and CPR training appropriate to the age of children they serve.

8.2.c. Supervised Practice. An agency shall require that on completion of the orientation training and before assuming full responsibility, all employees providing direct services to clients receive twenty (20) hours of one-on-one supervised practice in their specific job functions with an employee who has a minimum of two (2) years of experience in performing similar job functions to that of the employee in training.

8.2.d. Ongoing Training.

8.2.d.1. An agency shall require that all employees providing direct services to clients receive at least twenty (20) hours of ongoing training within six (6) months of employment in areas including assessment of family dynamics, human growth and development, values and cultural diversity, and behavior management.

8.2.d.2. An agency shall require that after the first year of employment, all employees providing direct services to clients, complete a minimum of twenty-five (25) hours of training per year, fifteen (15) hours of which shall be directly related to the employee's responsibilities.

8.2.e. Supervisory Review.

8.2.e.1. An agency shall set a policy requiring all employees to receive regular, planned supervisory reviews through individual conferences and meetings, the frequency determined by the experience of an employee and the amount of consultation and guidance needed.

8.2.e.2. An agency shall require a supervisor to complete performance evaluations for each employee after the first three (3) months, six (6) months and annually. The evaluation, a copy of which shall be given to the employee, shall include setting goals and objectives for an employee, be signed and dated by the supervisor and the employee, and give the employee an opportunity to respond in writing.

8.3. Contracted Professional Services.

8.3.a. An agency shall verify that all contracted professional services are certified or licensed in the service they are providing, according to W. Va. Code §30-1-1 et seq.

8.3.b. An agency shall have a written agreement with contracted professionals who provide direct services to a child in placement describing the specific services to be provided.

8.3.c. A contracted professional providing direct services to a child in placement shall provide written reports to the child's case manager.

8.4. Volunteers.

8.4.a. An agency who uses volunteer services, including student field placements and internships, shall have a plan for their specific use, shall provide that an agency employee oversee their service, and shall provide training prior to their beginning service on:

8.4.a.1. The policies, procedures, goals and objectives of the agency;

8.4.a.2. The service planning process;

8.4.a.3. The services offered and the volunteer's role on the team;

8.4.a.4. The policies on confidentiality;

8.4.a.5. The policies on reporting child abuse or neglect;

8.4.a.6. The code of conduct between employee and children; and

8.4.a.7. The emergency protocol.

8.4.b. An agency shall require volunteers to provide references, complete a Statement of Criminal Record form and complete a Child Abuse or Neglect History form.

8.4.c. An agency shall require that volunteers have a physical examination and a tuberculosis test with negative test results within three (3) months of providing services to children and once a year after that, establishing that a volunteer is physically and mentally capable of providing services.

8.5. Adoption Services or Foster Care Handbook.

8.5.a. An agency that provides adoption or foster care services shall operate the program in accordance with this licensing rule, stating the necessary policies, procedures and forms in a handbook given to the adoption and foster care parents.

8.5.b. An agency shall review and revise policies and procedures according to legislative changes under W. Va. Code §49-2B-1 et seq. or per the Secretary's directive during a licensure application, and shall record the dates of implementation and revision.

8.5.c. An agency shall give foster, adoptive and biological parents the opportunity to participate in the review and revision process.

§78-2-9. The Child's and Family's Basic Rights.

9.1. For the child and the biological family, an agency shall ensure the following rights:

9.1.a. Equal access to services regardless of race, religion, ethnicity, gender, disability, or sexual orientation;

9.1.b. Services consistent with identified needs in the least restrictive environment available;

9.1.c. Interdisciplinary, therapeutic services that meet a child's physical, emotional, social, educational and financial needs;

9.1.d. Active participation and respect as an individual during the delivery of services process;

9.1.e. Reasonable privacy;

9.1.f. Contact between a child and his or her biological family shall not be restricted as a means of punishment or in any way except as specified by court order or documented in the child's service plan and visits shall take place during hours different from an agency's business hours when the family cannot visit during those hours, and shall be arranged and take place with the prior knowledge of the foster parents;

9.2. A Child receiving services from the Agency shall have in addition to the rights in subsection 9.1 of this rule, the following:

9.2.a. Adequate shelter, food and clothing;

9.2.b. Education and training;

9.2.c. Services necessary to promote health and safety;

9.2.d. Adult guidance, support and supervision;

9.2.e. Freedom from abuse, neglect, and exploitation; and

9.2.f. Full communication with his or her attorney, clergyman, and an authorized representative of the placing agency or of the court of record, including visits, correspondence, and telephone calls.

9.3. An agency shall have policies to ensure that a child in placement's maximum health and safety needs are met including receiving:

9.3.a. The level of supervision required in the service plan;

9.3.b. Appropriate medical screening, diagnosis, and treatment on a regular basis; and

9.3.c. A minimum of the following routine treatment, and emergency medical and dental treatment:

9.3.c.1. An initial general medical examination by a physician thirty (30) days before placement or within thirty (30) days after placement and routine medical examinations after that as recommended for the child's age;

9.3.c.2. Immunizations as recommended by the American Academy of Pediatrics;

9.3.c.3. For a child two (2) years and older, an examination by a dentist six (6) months before placement or within thirty (30) days after placement, and after that a semiannual examination by a dentist and follow-up treatment as needed; and

9.3.c.4. Any treatment or aids prescribed including eyeglasses, a hearing aid, a prosthetic or corrective device;

9.4. A Child with an Extraordinary Medical Need. Before accepting a child with an extraordinary medical need beyond routine and preventive medical care, an agency shall ensure that:

9.4.a. The child is examined by a physician within seven (7) days before placement, and the physician documents that the child can be appropriately cared for in a home setting;

9.4.b. The physician documents in the child's record complete orders for medication, treatment, diet, range of motion programs, habilitation, and special medical or developmental procedures needed;

9.4.c. The foster or adoptive parents receive all of the training necessary to care for the child prior to placement;

9.4.d. The foster or adoptive parents maintain a daily medication log for each child that includes the name of the medication, why it was prescribed, the physician who prescribed it, the dosage, the administration schedule, the potential side effects and any change in the medication that the physician makes;

9.4.e. Medication is administered for therapeutic reasons only and under the following provisions:

9.4.e.1. A physician shall examine the child before prescribing a medication, and he or she is the only one who can alter the medication or medication level;

9.4.e.2. The child's parents or guardian may revoke consent for a medication at any time, and upon revocation the administration of the medication shall cease immediately;

9.4.e.3. When the parents or guardian or child revoke consent, an agency shall inform the prescribing physician; if the prescribing physician reports that it is necessary for the well being of the child, an agency shall seek a court order to have it continued; and

9.4.e.4. An agency shall follow certain procedures if a medication error in dosage, administration or adverse side effects are noted that include contacting the prescribing physician;

9.4.f. Psychotropic medication prescribed shall have these additional provisions:

9.4.f.1. The parents or guardian of a child, and a child fourteen (14) years or older unless the child is documented to be lacking the capacity for informed consent, shall give prior written informed consent for the use of a psychotropic medication;

9.4.f.2. The child's foster or adoptive parents and primary case manager shall receive training related to the psychotropic medication, its expected results, its potential side effects, and an agency's policies regarding its use;

9.4.f.3. A child fourteen (14) years or older who refuses to take medication three (3) consecutive times shall be considered to have revoked consent;

9.4.f.4. When consent is revoked, the administration of medication shall cease immediately; and

9.4.e.5. When the parents or guardian revoke consent an agency shall inform the prescribing physician; if the prescribing physician reports that it is necessary for the well being of the child, an agency shall seek a court order to have it continued.

9.5. Religion.

9.5.a. An agency shall have a written description of its religious orientation, policies and procedures, if applicable, and shall provide the information to the child and his or her biological parents or guardian upon admission.

9.5.b. An agency shall inform the child and his or her biological parents or guardian about the foster parents' religious practices prior to placement; and

9.5.c. Upon admission, the agency shall ask the child, and the parents or guardian their religious preferences, and follow their requests and service plan regarding religious training and attendance at religious activities.

9.6. Race, Color, National Origin, Culture and Ethnicity.

9.6.a. In placement decisions, an agency shall not consider race, color or national origin unless it is part of an individualized determination that the facts and circumstances of a particular case require the consideration of race, color or national origin in order to advance the best interests of the child.

9.6.a.1. Considerations of race, color or national origin shall be in accordance with applicable federal law and the policy guidance of the Office of Civil Rights of the U. S. Department of Health and Human Services. Consult 60 Federal Register 20,272 (April 25, 1995) or <http://www.os.dhhs.gov/progorg/ocr/acf.htm>.

9.6.b. An agency shall ensure that a child has the opportunity to participate in cultural and ethnic activities significant to his or her heritage.

9.7. Behavior Management and Discipline. An agency shall provide policies and procedures for foster or adoptive parents to use as guides in disciplining a child and shall explain them to the agency employees, the placing worker, the child, the foster or adoptive parents, and the biological parents or guardian.

9.7.a. Appropriate methods of discipline include:

9.7.a.1. An emphasis on discipline with kindness and understanding, using positive feedback and rewards to reinforce good or improved behavior;

9.7.a.2. Simple, clear, understandable and consistent household rules;

9.7.a.3. Measures appropriate to the developmental level of the child that help him or her develop self-control and learn responsibility for his or her own actions;

9.7.a.4. That a parent or other prior approved adult care-giver only is permitted to discipline the child;

9.7.a.5. Measures administered close to the time of the child's act or behavior for teaching purposes and if removal is used, that it be for a reasonable period of time;

9.7.a.6. That crisis intervention skills and techniques be used according to agency policy only including provisions:

9.7.a.7. That passive physical restraint be used only after receiving training on the agency approved method of restraint; and

9.7.a.8. That the foster parents document the use of crisis intervention skills and techniques and submit an incident report to the director or his or her designee for review within twenty-four (24) hours or the next working day after the intervention.

9.7.b. Inappropriate Methods of Discipline. An agency shall have policies and procedures that ensure that a child is not disciplined with cruel, harsh, unusual or unnecessary punishment, and shall have a description of those measures and methods that are not permitted, including but not limited to the following:

9.7.b.1. Any type of physical hitting, spanking, slapping or other type of physical punishment inflicted in any manner upon the body;

9.7.b.2. Threats of removal from the foster or adoptive home;

9.7.b.3. Any acts, verbal abuse, or emotional abuse that humiliates, shames, disgraces, ridicules, belittles, or destroys a child's sense of dignity or self-worth including any remarks made about the child's biological parents or family;

9.7.b.4. Keeping a child out of school;

9.7.b.5. Denying food, clothing, shelter or bedding;

9.7.b.6. Closing or locking a child in any enclosed space;

9.7.b.7. Denying mail, telephone calls or visits with biological family members, unless it is related to section 9.1.f.1 of this rule;

9.7.b.8. Withholding a program service or a provision in the service plan; and

9.7.b.9. Administering a medication not prescribed.

9.7.c. Behavior problems shall be treated individually and privately. If there is a consistent pattern of unacceptable behavior, a separate behavior management plan shall be developed and added to the child's service plan.

9.8. The Child's Financial Resources.

9.8.a. Money that a child earns, or receives as a gift or an allowance shall be the child's personal property.

9.8.b. An agency shall not place conditions on a child's money unless they are specified in the service plan.

9.8.c. An agency shall not require a child to pay for his or her care or services unless it is specified in the child's service plan.

9.8.d. An agency shall maintain a separate account for each child's financial resources and return the resources upon the child's discharge.

9.9. Clothing.

9.9.a. An agency shall ensure that each child has adequate, well fitting and seasonal clothing appropriate to his or her age, sex and individual needs, shall allow the child choice in the selection of the clothing, and shall replenish the wardrobe as necessary; and

9.9.b. At the time of placement and at the time of discharge, an agency shall take an inventory of the child's clothing and personal possessions.

§78-2-10. Placement Plans and Procedures.

10.1. Referrals.

10.1.a. An agency shall accept referrals from persons or organizations that have an interest in the welfare, security or treatment of the child and family, and authority to make the referral.

10.1.b. An agency shall have policies and procedures for determining if a referral is appropriate for the services the agency offers, and for accepting a voluntary referral from a child or biological parent.

10.1.c. When an agency offers placement services to biological parents, it shall provide counseling to preserve the family unit including alternatives to placement, and document the counseling.

10.2. Intake. An employee designated by the agency shall be responsible for:

10.2.a. Conducting an intake interview with the child, the biological parents or guardian, or the foster or adoptive parents to determine the need for services;

10.2.b. Providing orientation to the agency, including an overview of the placement process, the child assessment process, and identifying which agency employee is responsible for each activity;

10.2.c. Coordinating the child assessment process with the child, his or her parents, and the placing worker;

10.2.d. Introducing the child and his or her family to the case manager assigned to them by the agency; and

10.2.e. Participating in the service planning process.

10.3. Written Service Agreement. Upon placement of the child an agency shall have a written, signed, and dated service agreement between the child's parents or guardian and the agency that includes:

10.3.a. Specific services to be provided;

10.3.b. A description of the fees;

10.3.c. A list of the planning team members;

10.3.d. Signed consent and authorization forms when necessary for the delivery of services, including to obtain medical and dental care, for travel, for the release of information, and to obtain photographs and audio or video recordings of the child;

10.3.e. Responsibilities of the child, the biological parent or guardian, the primary case manager, the foster parents or the adoptive parents during the service delivery; and

10.3.f. A description of the conduct or activity by the child or family that may result in the agency's discontinuing services to them.

10.4. Initial Service Plan. Based on the intake interview and available referral information, an agency shall develop an initial service plan within seven (7) days of placement to be signed and dated by the child, if appropriate to his or her age, and the child's biological parent or guardian that shall include:

10.4.a. An initial identification of the child's strengths and service needs;

10.4.b. The objectives of placement and the agency's plan for meeting them;

10.4.c. A recommendation for the best type of placement;

10.4.d. Services, assessments, and evaluations that need to be provided prior to the development of the master service plan;

10.4.e. Specific management strategies agreed upon by the agency and biological parents or guardian in handling any known behavioral problems; and

10.4.f. Projected goal date for the development of the master service plan.

10.5. Child Assessment. An agency shall complete a detailed narrative child assessment prior to developing the master service plan, that includes the following information:

10.5.a. The name, telephone number and address of the referral source;

10.5.b. A summary of the circumstances that led to the child's referral for placement;

10.5.c. The child's physical description, including a recent photograph;

10.5.d. The child's personality description, including the child's appropriate and maladaptive behavior;

10.5.e. Complete developmental history, including birth and health history, and deviations from the normal range of development; and

10.5.f. Biological family history and background that provides:

10.5.f.1. Physical description and health history of each family member;

10.5.f.2. Description of the biological mother's pregnancy, including prenatal care, nutrition, and use of alcohol or drugs;

10.5.f.3. Formal education and training, functional level, and occupation of each family member;

10.5.f.4. Religion of each family member;

10.5.f.5. Special interests, achievements and abilities of each family member;

10.5.f.6. Relationship of each family member to the child;

10.5.f.7. Description of the child's or family's support system; and

10.5.f.8. Any other significant information that may affect the child's development.

10.5.g. An assessment of the child's current health status, including records of a current medical examination, immunizations, laboratory work done, and any additional tests or evaluations;

10.5.h. The child's education history, including the current level of functioning and the results of any testing that would indicate that special services are needed;

10.5.i. For any child age fourteen (14) years or older, a life skills assessment;

10.5.j. Description of the child's relationships with peers and significant adults outside of the family;

10.5.k. Special interests, achievements, and abilities of the child;

10.5.l. A complete description of previous interventions or placements with the child and biological family and their results;

10.5.m. The child's current legal status;

10.5.n. A copy signed and dated by the employee who wrote the child assessment; and

10.5.o. For emergency placements, a summary completed within two (2) working days of admission that describes the immediate conditions that led to the placement and as much information as is available about the child at the time of admission.

10.6. Match Summary.

10.6.a. An agency shall use the assessment and evaluation of the child's needs and strengths and the completed child assessment to develop a written match summary.

10.6.b. An agency shall use the match summary in selecting the specific foster or adoptive parents, or other suitable placement for the child.

10.6.c. An agency shall complete a new match summary when the child is moved to another home or placement.

10.7. The Interstate Compact on the Placement of Children.

10.7.a. Before placing a child in a foster or adoptive home in another state or accepting a child for placement from another state, an agency shall make the referral through the Interstate Compact Administrator in the Department of Health and Human Resources. See W. Va. Code §49-2A-1 et seq. and §49-2C-1 et seq..

10.7.b. Before placing a child out of state, an agency shall secure written approval from the Interstate Compact Administrator in the receiving state.

10.8. Preparation of a Child for Placement.

10.8.a. An agency shall prepare a child for placement, as appropriate to his or her age and developmental level.

10.8.b. The agency shall provide information and support to the child as appropriate to help the child understand what the placement process is and what it will mean to him or her.

10.9. Planning Team.

10.9.a. An agency shall utilize a team to develop a service plan for foster care.

10.9.b. The planning team shall include the child as appropriate to his or her level of understanding, the parents or guardian, the family's case manager, the placing worker, the child's attorney, professionals working with the child, and other individuals significant in the child's life that have an interest in the child.

10.9.c. Any plan developed from the Multi Disciplinary Team process shall be used to assist in the development of the service plan.

10.10. Master Service Plan.

10.10.a. An agency shall ensure that within thirty (30) days of placement of a child in foster care, the planning team develops a master service plan for each child.

10.10.b. The planning team shall use the child assessment, an evaluation of the child's needs and strengths, and information from the Multi Disciplinary Team process to develop the service plan.

10.10.c. The master service plan shall include:

10.10.c.1. The child's specific needs, the plan for meeting them, the way each strength will be supported, the time frame for meeting each need or goal, and the methods of measurement;

10.10.c.2. Any special services to be provided;

10.10.c.3. The nature and frequency of planned respite care, if appropriate;

10.10.c.4. Information about the nature and frequency of the child's contact with his or her biological family, employees, and other planning team members;

10.10.c.5. A description of the conditions under which a child shall be returned to his or her home, be placed for adoption, attain independent living or be discharged to another program;

10.10.c.6. Assessment of the long range goals and planning for the child; and

10.10.c.7. An identification of all persons responsible for implementing or overseeing the implementing of the goals, objectives, and services identified in the service plan.

10.10.d. The master service plan shall be signed and dated by the planning team, and a copy shall be given to each member.

10.10.e. When a planning team member is unable to participate, the reasons shall be noted on the master service plan.

10.10.f. An agency shall ensure that the master service plan and subsequent revisions are explained to the child, his or her biological parents or guardian, and the foster or adoptive parents in language that is understandable to them, and the explanation shall be documented on the plan.

10.10.g. If an agency does not ensure that the master service plan is explained, the reasons shall be documented in the plan.

10.11. Master Service Plan Review.

10.11.a. An agency shall ensure that each child's master service plan is reviewed by the planning team not less than once every three (3) months.

10.11.b. An agency shall give members of the planning team at least two (2) weeks notice of the scheduled review, and a copy of this notice shall be placed in the child's record.

10.11.c. The review shall include the following:

10.11.c.1. An evaluation of the progress toward meeting each identified need, goal and objective;

10.11.c.2. An evaluation of the continuing need for the current placement;

10.11.c.3. An identification of any new needs, goals or objectives, the plan and time frame for meeting them, the person who will be responsible for implementing them, and the methods of measurement;

10.11.c.4. Any changes in the estimated length of placement, long range goals, or discharge plans;
and

10.11.c.5. An evaluation of the progress in alleviating the reasons the child was placed in care.

10.11.d. The review and updated service plan shall be signed and dated by the members of the planning team and a copy given to each member of the team.

§78-2-11. Transfers and Discharges.

11.1. An agency shall have a protocol for transferring a child from one foster or adoptive home or placement to another within the agency, including:

11.1.a. Documentation of the circumstances causing the move;

11.1.b. Documentation of the new match summary;

11.1.c. A procedure for obtaining supervisory and planning team approval for the new placement;

11.1.d. A procedure for notifying the planning team of the new placement which shall occur not less than forty-eight (48) hours prior to a transfer, under W. Va. Code §49-6-8(e), or in an emergency transfer situation, not less than forty-eight (48) hours after the placement, under W. Va. Code §49-6-8(e);

11.1.e. A provision that a child six (6) months and older shall have a minimum of one (1) visit with the new foster parents prior to placement when the placement is not an emergency;

11.1.f. An account of the child's understanding of and response to the transfer;

11.1.g. A provision that prior to the child's placement the new foster parents shall be given a copy of the child's current service plan and the social, medical, psychological and school history;

11.1.h. A provision that the planning team shall amend the child's service plan within ten (10) working days of the transfer;

11.1.i. A provision that when a child is transferred more than three (3) times in a year, excluding planned respite time that does not exceed fourteen (14) days as documented in the child's service plan, the agency shall provide the following information to the child's placing worker, as required under W. Va. Code §49-6-8(d):

11.1.i.1. A written summary of the transfers, including reasons for the moves; and

11.1.i.2. Plans to prevent further transfers that are not in accordance with the child's service plan.

11.2. An agency shall have a written protocol for transferring a child to a placement outside of the agency's program.

11.3. An agency shall have a written protocol for terminating the placement of a child in a foster home after eighteen (18) months, and the protocol shall be in accordance with W. Va. Code §49-2-14.

11.4. **Planned Discharge Protocol and Aftercare Planning.** An agency shall ensure that the planning team develops an aftercare plan not less than three (3) months prior to the planned discharge of a child, that includes:

11.4.a. An evaluation of the most recent service plan, identifying the goals and needs that have been met and those that have not;

11.4.b. Identifying the services and resources necessary to meet the remaining goals and needs of the child, the individuals responsible for each service, and the frequency necessary for each service;

11.4.c. The name, address and telephone number of the person or agency to whom the child is to be discharged;

11.4.d. A protocol for transferring information and records about the child to the new program when the child is to be placed in another program upon discharge;

11.4.e. An account of the child's awareness and understanding of his or her aftercare plan;

11.4.f. The signatures of the planning team members and dates they signed the aftercare plan;

11.4.g. Documentation of any disagreement of a planning team member's with the child's discharge or aftercare plan; and

11.4.h. The reasons why a member of the planning team is unable to participate in the aftercare planning.

11.5. An agency shall have a written protocol for unplanned discharges that are not in the child's service plan. For an unplanned discharge other than an emergency, an agency shall give a minimum of ten (10) working days notice of the discharge to the placing worker, or his or her supervisor, and to the child's parents or guardian.

11.6. An agency shall have a written protocol for emergency discharges that includes the following provisions:

11.6.a. An emergency discharge shall occur only when a child's behavior may present a danger to him or herself or others;

11.6.b. Identification of employees designated by the agency to have the authority to assess the child's status and to recommend an appropriate alternate placement;

11.6.c. That an agency shall notify the placing worker, the biological parents or guardian, and the primary case manager immediately;

11.6.d. If the agency arranges for an emergency placement, the placing worker and the primary case manager shall be consulted in determining which program best meets the child's needs;

11.6.e. The child shall be accompanied by a designated agency employee to the receiving agency or individual;

11.6.f. An agency shall document the emergency discharge in the child's case record within twenty-four (24) hours of the discharge.

11.7. On the day of discharge an agency shall document the following information in the child's record:

11.7.a. The return by the agency of the child's personal items, prescribed medication and dosage instructions, and personal records including the birth certificate, social security card, and school records; and

11.7.b. The name, relationship to the child, and address of the person or agency receiving physical custody of the child upon discharge.

11.8. Within thirty (30) days of the date of a child's discharge an agency shall complete a written discharge summary that includes the following information:

11.8.a. The name, address, telephone number and relationship of the person or agency to whom the child was discharged;

11.8.b. The date and time of the child's discharge;

11.8.c. The reason for the child's discharge;

11.8.d. A summary of all services provided during placement;

11.8.e. An account of the child's growth and accomplishments during placement;

11.8.f. A description of the circumstances that led to the unplanned discharge if it is not in accordance with the child's service plan, the actions taken by the agency, and the reasons for these actions; and

11.8.g. The planning team's recommendation for the most appropriate placement for the child.

§78-2-12. The Agency's Responsibilities to Foster and Adoptive Parents.

12.1. An agency shall have a written description of the responsibilities of foster and adoptive parents to the child, to the child's family and to the agency.

12.2. An agency shall have a policy detailing its responsibilities to foster and adoptive parents that includes:

12.2.a. Providing a copy of the policy that describes the responsibilities of the parents and the agency in the placement of a child;

12.2.b. Providing information about the agency's emergency telephone on-call system operational at all times;

12.2.c. Informing them about the agency's grievance procedure;

12.2.d. Providing complete information about a child's background, his or her current physical, mental, emotional and behavioral functioning and any special needs prior to placement;

12.2.e. Involving foster parents on the child's service planning team and providing them a copy of the child's initial service plan and all subsequent plans;

12.2.f. Providing ongoing training, guidance and support, including crisis support;

12.2.g. Providing periodic respite care for a child in a foster care placement;

12.2.h. Providing complete information about the procedures to be followed when an allegation of child abuse or neglect, or a complaint of noncompliance with licensing regulations or agency policy is made;

12.2.i. Maintaining the confidentiality of records according to agency policy and procedure;

12.2.j. Providing foster parents access to their own record with the exception of reference letters and reference interviews;

12.2.k. Providing foster parents liability and personal loss coverage for loss or damage occurring as a result of their role as foster parents;

12.2.l. Giving foster parents ten (10) working days notice prior to removing a child, unless it is an emergency situation;

12.2.m. Informing adoptive parents of the child's legal status prior to and upon the final adoption; and

12.2.n. Informing adoptive parents of the legal procedures involved in adoption under W. Va. Code §49-4-1 et seq.

§78-2-13. Foster and Adoptive Parents' Characteristics and Criteria.

13.1. Character and Personal Requirements.

13.1.a. An agency shall accept applications from and recruit foster and adoptive parents with the life experiences, personal characteristics and temperament suitable for working with children in need of care.

13.1.b. Foster and adoptive parents shall be nurturing, responsible, patient, stable, flexible, mature, healthy adults capable of meeting the individual and specific needs of children referred for placement services.

13.1.c. Newly approved foster and adoptive parents shall be not less than twenty-one (21) years of age and not more than sixty-five (65) years of age.

13.1.d. Prior to approval each foster and adoptive parent shall provide a written or tape-recorded detailed personal history that includes:

13.1.d.1. Childhood and family experiences, including those with extended family;

13.1.d.2. Education and employment history;

13.1.d.3. Important life experiences;

13.1.d.4. Values, ideals, religious beliefs and practices;

13.1.d.5. Current and previous marriages and the parent's view of them;

13.1.d.6. Health history, including use of drugs or alcohol; and

13.1.d.7. Hobbies and interests.

13.1.e. At the time of consideration by an agency, foster and adoptive parents shall describe any current or previous experience with other licensed agencies or the Department, and if currently providing services to more than one (1) licensed agency, shall detail the responsibilities to each person and agency in a written statement.

13.2. Health Considerations.

13.2.a. Prior to approval foster and adoptive parents shall provide the following health documentation:

13.2.a.1. An initial medical exam report from a health care professional for parents and all other household members certifying they are in good health, free of communicable diseases, and test negative for tuberculosis. Foster parents shall have this exam and testing every five (5) years;

13.2.a.2. Immunization records for the family's own children; and

13.2.a.3. Any previous history of or current condition involving a disability, alcoholism, or addiction for all household members.

13.2.b. The agency, the Licensing Director or the Director of the Institutional Investigative Unit may require additional examinations, mental health assessments, or drug screens for indications that the safety or well-being of a child in care may be jeopardized by the physical and mental health of a household member.

13.2.c. An agency shall not approve foster and adoptive parents whose health, behavior, emotional or psychological make-up may endanger the well-being of a child, and shall have a procedure for the immediate removal of a child in placement if a concern for the child's safety or well-being is indicated.

13.2.d. A foster or adoptive parent currently in therapy shall provide a signed statement from the therapist indicating that he or she is capable of providing appropriate child care.

13.3. Marital Status.

13.3.a. Couples living together shall be legally married to be considered for foster or adoptive parenting, and must provide proof of marriage before consideration.

13.3.b. Prior to approval, foster parents shall have been married for not less than one (1) year, and adoptive parents shall have been married for not less than two (2) years.

13.3.c. Prior to approval, a single foster parent shall show proof that he or she has lived in his or her own established household for not less than one (1) year, and a single adoptive parent shall show proof that he or she has lived in his or her own established household for not less than two (2) years.

13.3.d. Divorced foster and adoptive parents shall provide a copy of the divorce decree.

13.4. Living Arrangements.

13.4.a. The total number of children in a foster home, including the family's own children living in the home, shall not exceed six (6).

13.4.b. An agency shall not place more than two (2) children less than two (2) years of age in the same home.

13.4.c. Foster parents shall not care for unrelated adults for compensation in the home, unless the adults were placed for care in that home as a foster child.

13.4.d. Foster parents shall not provide day care or babysitting services in the home for unrelated children for compensation.

13.5. References.

13.5.a. Foster and adoptive parents shall provide the names of not less than four (4) references from persons who are not related to the parents.

13.5.b. Three (3) of the four (4) references shall be interviewed face-to-face or by telephone to discuss in detail their responses and any related information, and copies of these interviews shall be signed and dated.

13.5.c. Prior to agency approval, all references for foster and adoptive parents shall be positive in nature.

13.6. Finances and Working Arrangement.

13.6.a. Foster and adoptive parents shall provide documentation of sufficient income and financial resources to meet their financial obligations.

13.6.b. If foster parents are or a single foster parent is employed outside the home, the agency shall approve a plan for the care and supervision of the child during work hours, and the plan shall be included in the child's service plan .

13.7. Background Check.

13.7.a. Prior to approval, all adult household members shall complete a CIB and a "Statement of Criminal Record" form.

13.7.b. Prior to approval, all adult household members shall complete a Statement of Child Abuse or Neglect History form and a signed release of information authorizing the Department to verify the information.

13.8. Transportation.

13.8.a. Foster and adoptive parents shall have reliable transportation available.

13.8.b. All vehicles used to transport children shall be maintained in safe running condition and in compliance with state law.

13.8.c. Foster and adoptive parents shall show proof that the vehicles used to transport children are covered by liability insurance and that all licensed drivers are included in the insurance policy.

13.8.d. Foster and adoptive parents shall document that anyone who will transport children has a valid driver's license.

13.8.e. Foster and adoptive parents shall use safety seats and seat belts when transporting children.

§78-2-14. Foster and Adoptive Parents' Agreement with an Agency.

14.1. Foster and adoptive parents shall enter into a cooperative agreement with an agency that includes the provisions that foster and adoptive parents shall:

14.1.a. Permit an agency and designated Department employees to conduct announced and unannounced home visits and permit access to children in the Department's custody upon request;

14.1.b. Maintain the records and other documentation required by an agency;

14.1.c. Promptly notify an agency concerning any change in the family's circumstances;

14.1.d. Immediately notify an agency about any hospitalization, surgery, accident, serious illness, death, arrest or detention by a law enforcement agency of a child, or about any other unanticipated incident involving the child placed in their home;

14.1.e. Follow an agency's policy on discipline and on confidentiality of the child's records;

14.1.f. Document their understanding of an agency's policy on child abuse or neglect;

14.1.g. Notify an agency not less than ten (10) days before requesting the voluntary removal of a child, unless there is an emergency or other circumstance that necessitates the immediate removal of a child;

14.1.h. Give an agency not less than thirty (30) days notice when requesting the voluntary closure of their home; and

14.1.i. Inform an agency of a charge, arrest or indictment of any adult household member within twenty-four (24) hours of the occurrence.

§78-2-15. Safety Requirements for Foster and Adoptive Homes.

15.1. An agency shall ensure that the physical facilities of a foster or adoptive home present no health or safety hazards, and that they be of a degree of comfort and cleanliness sufficient to ensure the well-being and respect of the family in the community.

15.2. The home shall have an indoor and an outdoor recreation area that is free of unsanitary or hazardous items and shall have toys available to children which are appropriate for their ages.

15.3. For sleeping:

15.3.a. Each child shall have an individual bed that is not a cot or roll away bed;

15.3.b. A maximum of four (4) children may share a bedroom.

15.3.c. A child shall not share a bedroom nor bed with an adult, or a child of the opposite sex with the exception of a child less than two (2) years old who may temporarily share a bedroom only after the written approval of the Department.

15.3.d. A child's bedroom may not be used for any other purpose.

15.3.e. A child's bedroom located in the attic or basement shall meet the same standards as all bedrooms in the home.

15.4. The home shall have an operative telephone; alternate communication devices such as citizen band radios and cellular telephones, must be approved by the agency prior to use.

15.5. Household items including cleaning supplies, toxic or flammable materials, medicines, and alcoholic beverages, that may be hazardous to a child shall be stored in areas inaccessible to children.

15.6. Weapons, related attachments and ammunition shall be stored in a locked container inaccessible to children.

15.7. Electrical and fire prevention provisions shall include:

15.7.a. That a home have a fire escape plan that includes a diagram of the rooms, the escape routes, and an outside meeting place;

15.7.b. That a child walk through the fire escape plan and route with the foster or adoptive parent within twenty-four (24) hours of placement;

15.7.c. That a battery operated smoke detector be located near a child's bedroom;

15.7.d. That a fire extinguisher of a minimum of five (5) pounds be located in the kitchen;

15.7.e. That outlets and plug-in extensions, and kitchen, heating and other electric appliances have standard UL approved safety features and be clear of combustibile materials;

15.7.f. That electrical circuits be protected by a maximum twenty (20) amp fuse or circuit breaker; and conform to reasonable safety standards;

15.7.g. That an operative flashlight be easily accessible for emergency lighting.

15.8. All mobile homes under consideration for placement homes shall be manufactured after the year one thousand nine hundred seventy-six (1976).

15.9. Non municipal water used in a home shall be tested and determined to be safe.

15.10. Children may not be housed in detached housing or unapproved rooms.

15.11. Hot water heaters shall supply sufficient hot water to adequately meet household requirements.

15.12. Animals living in the home shall be vaccinated as required by state law.

§78-2-16. Comprehensive Home Study.

16.1. An agency shall conduct a comprehensive written home study with the approved foster or adoptive parents and all household members prior to a child placement in the home including a minimum of one (1) individual in-person interview and two (2) group interviews.

16.2. An agency shall write a narrative report on the home study that lists the dates, times, locations and participants, and is signed and dated by the agency employee who conducted it and the agency director, or his or her designee.

16.3. The study shall describe and evaluate aspects of the home and family including:

16.3.a. The composition of the household and intra-family relationships;

16.3.b. Attitudes, values and level of understanding of child development and sex education;

16.3.c. Family decision making process, including descriptive examples;

16.3.d. Handling of conflict, stress, and frustration, including descriptive examples;

16.3.e. Individual and family hobbies, recreation, community activities, and social life;

16.3.f. The family's values and attitudes and how they relate in the community and to religious, ethnic and cultural differences;

16.3.g. Each parent's personal history, attitudes, feelings, and values;

16.3.h. The parents' financial situation;

16.3.i. The motivation for the parents in becoming foster or adoptive parents;

16.3.j. The foster family's attitudes about having a foster child in the home, and about a foster child's biological parents and family;

16.3.k. An account of discipline methods discussed including:

16.3.k.1. Methods acceptable to the agency; and

16.3.k.2. The family's attitude about it and their past experiences;

16.3.l. A summary of the discussion of the multiple aspects of foster child care including the circumstances surrounding placement of a child in foster care, the family's expectations of a foster child's presence in the home, anticipated problem situations and coping skills, and possible reactions of the child placed;

16.3.m. An assessment of the adoptive parent's ability and willingness to make a lifetime commitment to the adopted child, and their understanding of the legal rights of the adopted child;

16.3.n. A summary of the discussion with the adoptive parents about who would become the adopted child's guardian if both of the adopted parents died;

16.3.o. An account of the discussion with the adoptive parents about open adoption;

16.3.p. A discussion with the adoptive parents about health insurance coverage for the adoptive child before the adoption is finalized;

16.3.q. A discussion with the adoptive parents about adopting a child with special needs, subsidies and the availability of community resources; and

16.3.r. A statement of the number, ages and gender of children desired by the foster or adoptive parents.

16.4. The home study shall identify the foster or adoptive parents' strengths, attributes, abilities, weaknesses, potential problem areas, or concerns as the basis for approval.

16.5. The home study shall make a recommendation regarding the number, ages, gender and any other special conditions or circumstances for which the home may be approved for placement.

§78-2-17. Approval or Denial of a Foster Home for Placement.

17.1. All employees who participated in the home study process shall be involved in the approval or denial of the home for placement, shall set the conditions or circumstances of the approval or denial, and shall notify the family in writing of one of the following:

17.1.a. Notification of Approval. An agency shall provide foster parents with a certification of the approval of their home for placement, including the names of the foster parents approved, the home address, the date of approval, the number, ages, and gender of children for which approval is given, and any other conditions placed on the approval. The certification shall expire one (1) year from the date of issuance unless it is revoked;

17.1.b. Notification of Denial. An agency shall provide foster parents with written notification of the denial that includes the reason for the denial; or

17.1.c. Notice of Revocation. An agency shall provide foster parents with written notification of revocation of the status of approval that includes the revocation date and the reason for the revocation.

§78-2-18. Approval or Denial of an Adoptive Home for Placement.

18.1. An agency shall provide adoptive parents with written notification of the approval or denial of their home for placement, including the date of approval or denial, the number, ages, and gender of children for which approval is given, any other conditions for approval identified in the home study, or the reason for denial.

§78-2-19. Evaluations for Approved Foster and Adoptive Parents.

19.1. For Foster Parents. An agency shall evaluate foster parents annually and complete a narrative summary that includes:

19.1.a. The children's names, ages, lengths of stay and reasons for leaving;

19.1.b. An assessment of the foster parents' ability to implement the children's service plans and any changes in the family's circumstances;

19.1.c. An assessment of the foster parent's attitudes on foster care, the foster child's biological family, and the agency;

19.1.d. An assessment of the foster parents' strengths and weaknesses;

19.1.e. A recommendation for any changes in the conditions of approval; and

19.1.f. The dates and signatures of the employee who writes the evaluation and the agency director or his or her designee.

19.2. Upon the successful completion of the annual evaluation, an agency shall renew the certificate of approval.

19.3. For Adoptive Parents who have not had a child placed with them, an agency shall evaluate them annually and complete a narrative summary that includes:

19.3.a. An update of each of the parent's biographies, and any changes in their circumstances or attitudes about adoption;

19.3.b. A recommendation for any changes in the adoptive parents' conditions of approval; and

19.3.c. The dates and signatures of the employee who writes the evaluation and the agency director or his or her designee.

§78-2-20. Training for Parents.

20.1. For Approved Foster Parents.

20.1.a. As a condition of approval an agency shall require that each foster parent participates in specified training curriculum.

20.1.b. An agency shall have a written plan for the orientation, annual training, and child-specific training for foster parents.

20.1.c. An agency shall document in the foster parents' record the date, subject and brief description of the training, its duration, and the name and title of the training instructor.

20.1.d. Prior to the placement of a child, an agency shall complete foster family orientation on the placement process, the agency's services and programs, legal aspects of foster care, discipline policies, behavior management, crisis de-escalation and intervention, and first aid training, including cardiac pulmonary resuscitation.

20.1.e. In addition to orientation training, an agency shall provide a minimum of fifteen (15) hours of ongoing training during the first year of approval.

20.1.f. After the first year of approval, an agency shall provide a minimum of twelve (12) hours of ongoing annual training in addition to training in first aid and cardiac pulmonary resuscitation.

20.1.g. An agency shall provide child-specific training to assist foster parents in implementing a child's service plan or a specific treatment objective.

20.2. For Approved Adoptive Parents.

20.2.a. As a condition of approval an agency shall require that each adoptive parent participates in a specified training curriculum.

20.2.b. An agency shall have a written plan for the training of adoptive parents, including pre-placement training and child-specific training.

20.2.c. An agency shall document in the adoptive parents' record the date, subject and brief description of the training, its duration, and the name and title of the training instructor.

20.2.d. An agency shall develop a program-specific training curriculum.

§78-2-21. Foster Child Placement and Home Closure Information.

21.1. Presentation of a Child to Prospective Foster Parents. An agency shall have a written protocol for the presentation of a child to the prospective foster parents, that includes the following provisions:

21.1.a. Prior to proceeding with the placement, the agency shall give a complete non-identifying description with all available information of the child to the prospective foster parents;

21.1.b. Upon request the agency shall have a profile available for the prospective foster parents;

21.1.c. The agency shall set a time frame for a decision by the prospective foster parents about proceeding with the placement; and

21.1.d. The agency shall document this process in the child's and the prospective foster parents' records.

21.2. Emergency Child Placements in Prospective Foster Care. An agency shall have a protocol for emergency placements, that includes the following provisions:

21.2.a. At the time of placement the agency shall provide as much information as is known about the child with the prospective foster parents, and additional information when it is available or as soon as the child assessment is completed;

21.2.b. An agency shall identify the needs and strengths of the child; and

21.2.c. An agency shall document the emergency placement process in the child's and the foster parents' record.

21.3. Involuntary Closure of a Foster Home. An agency shall have a protocol for the involuntary closure of a foster home that includes the following provisions:

21.3.a. A set of conditions, circumstances, and reasons for closure;

21.3.b. Specific procedures to follow;

21.3.c. That written notification be provided to the foster parents; and

21.3.d. Complete documentation of the process by the agency in the foster parents' record.

§78-2-22. Services to Biological Parents.

22.1. An agency shall ensure the protection of legal rights of biological parents to whom services are provided under a protocol that includes:

22.1.a. Complying with W. Va. Code §49-4-1 et seq. and §49-4A-1 et seq. and documenting that the biological parents have been fully informed about their legal rights.

22.1.b. Following a specific policy for the voluntary relinquishment of a child according to W. Va. Code §48-4-1 et seq.

22.1.c. Following a specific policy for releasing information about the child, the child's biological parents, and the child's adoptive parents according to W. Va. Code §48-4A-1 et seq..

22.2. An agency that accepts custody of a child from the biological parents, whether or not the child is placed for adoption, shall ensure that the following services are provided to the biological parents:

22.2.a. Counseling regarding the reasons for considering adoption planning for the child;

22.2.b. A complete information presentation about alternatives to adoption in an objective and non coercive manner;

22.2.c. Assistance in obtaining prenatal, maternity and postpartum care, health education, family planning services, and nutrition services shall be provided; and

22.2.d. Assistance in separating from the child, in accepting the permanence of the decision, and in determining immediate plans in their lives.

§78-2-23. Adoption.

23.1. Foster Parents' Role In Adoption Planning. If a child is in placement with foster parents, an agency shall include the foster parents in the child's adoption planning team by:

23.1.a. Explaining the foster parents' role in the adoption process;

23.1.b. Informing them of all plans for the child, including the child's placement planning; and

23.1.c. Providing support to them after the child has been placed in an adoptive home.

23.2. Presentation of Background Information.

23.2.a. When presenting a newborn child's background information to the prospective adoptive parents an agency shall follow a written protocol that includes the following provisions:

23.2.a.1. Prior to proceeding with an adoptive placement, prospective adoptive parents shall be given a complete verbal and written description of all available information on the biological parents' family histories and the prenatal care received by the biological mother;

23.2.a.2. If the agency practices open adoption, a preplacement agreement between biological parents and prospective adoptive parents that involves some amount of initial or ongoing contact, written policies and procedures shall be included in the protocol; and

23.2.a.3. Time frames shall be established for a decision by the prospective adoptive parents about proceeding with the adoptive placement.

23.2.b. When presenting an older child's background information to the prospective adoptive parents an agency shall follow a written protocol that includes the following provisions:

23.2.b.1. Prior to proceeding with an adoptive placement, the prospective adoptive parents shall be given a complete and accurate verbal description of the child;

23.2.b.2. Photographs or videos of the child shall be shown to the prospective adoptive parents;

23.2.b.3. A written summary including all information available about the child shall be provided to the prospective adoptive parents;

23.2.b.4. A meeting between the child's foster parents or other caretakers and the prospective adoptive parents shall be arranged if appropriate to discuss the child's day-to-day behavior; and

23.2.b.5. Time frames shall be established for a decision by the prospective adoptive parents about proceeding with the adoptive placement.

23.2.c. When presenting information about the prospective adoptive parents to the child an agency shall follow a written protocol that includes the following provisions:

23.2.c.1. That the prospective adoptive parents shall put together a scrapbook about themselves for use in presenting information to the child; and

23.2.c.2. That the child's foster parents shall be encouraged to be active partners in this process.

23.3. Adoption Placement Planning. An agency shall have a protocol for placement planning including the following provisions:

23.3.a. Placement planning shall be guided by the needs of the child and visits prior to placement for a child older than infancy shall occur over a minimum of a two (2) to three (3) week period; and

23.3.b. The agency shall contact the prospective adoptive parents during and after the parents' visits with the child to discuss concerns, needs and successes of the child and the adoptive parents;

23.4. Adoption Placement Services. An agency shall have a protocol for placement services including the following provisions:

23.4.b. The child's school records, medical history, and immunization records shall be provided to the adoptive parents upon placement;

23.4.c. The adoptive service agreement shall be signed by the adoptive parents and the agency upon placement; and

23.4.d. Documentation of the services offered or already provided shall be included in the child's and adoptive parents' records.

23.5. Adoption Support Services Following Placement.

23.5.a. An agency shall have a written description of the support services offered following placement, including:

23.5.a.1 The goals of the support services;

23.5.a.2. The rights and responsibilities of the agency and of the adoptive parents following placement;

23.5.a.3. The subsidies that may be available;

23.5.a.4. Time frames for contact and visits following the placement that shall include:

23.5.a.4.A. An initial telephone contact within seventy-two (72) hours of placement and an initial visit within one (1) week of placement;

23.5.a.4.B. A minimum of six (6) visits during the placement, at least four (4) of which are in the home of the adoptive parents;

23.5.a.4.C. In a two-parent family, both parents shall be involved in at least three (3) visits;

23.5.a.4.D. Additional visits on a frequency determined by the needs of the child and the adoptive parents;

23.5.a.5. Visits with all household members, and the child shall be observed during each visit; and

23.5.a.6. If the child is old enough to carry on a conversation, an interview with him or her in private during each visit;

23.5.b. An agency shall continue to provide support services for a minimum of six (6) months or longer until permanency is achieved; if the child is in the adoptive home as a foster care placement, the period of support services can include the time spent in the adoptive home in foster care;

23.5.c. A final visit shall be made to review the adoption process with the adoptive family prior to finalizing the adoption.

23.5.d. An agency shall document all activities during the placement period in the child's and adoptive parents' records.

23.6. Disruption of an Adoptive Placement. An agency shall have a protocol to follow when a disruption in an adoptive placement is being considered or appears imminent including:

23.6.a. An agency shall train employees to recognize the circumstances that can lead to the disruption of an adoptive placement;

23.6.b. An agency shall specify the roles and responsibilities of the agency and the adoptive parents during the process of disruption and the planning for a subsequent placement for the child;

23.6.c. An agency shall offer counseling to the child according to his or her needs in dealing with the disruption; and

23.6.d. An agency shall document the planning and services provided during a disruption in the adoptive parents' and child's records.

23.7. Placement of the Child After Disruption. An agency shall have a protocol to follow for subsequent placement after a disruption of adoptive placement including:

23.7.a. Making every effort to find another adoptive placement for the child and shall do everything possible to assist and support the child in adjusting to a new placement;

23.7.b. Giving complete information about the child to subsequent foster or adoptive parents prior to their making a decision to proceed with the new placement, including:

23.7.b.1. The nature of the disruption, the extent of the difficulties that resulted and the child's reaction to the disruption;

23.7.b.2. When possible, a meeting with the previous adoptive parents to learn about the child; and how separation and loss might affect a child's behavior; and

23.7.c. Documenting the planning and services provided during a placement after disruption in the subsequent foster or adoptive parents' and child's records.

23.8. Finalization of the Adoption. An agency shall have a written protocol that conforms with W. Va. Code §48-4-1 et seq. for the finalization of an adoption including the following provisions:

23.8.a. A description of the process of finalizing an adoption;

23.8.b. A description of the roles and responsibilities of everyone involved in finalizing an adoption;
and

23.8.d. A child twelve (12) years or older shall give written consent to the adoption.

23.9. Post-Legal Adoption Services. An agency shall have a protocol for the post-legal adoption services it offers, including the following provisions:

23.9.a. Adoption subsidy assistance;

23.9.b. Counseling assistance for adoption issues, including search and contact;

23.9.c. A provision of information about the biological family and birth history;

23.9.d. Education and support services for adoptive families;

23.9.e. Referrals for needed community services; and

23.9.f. Information and counseling concerning the Mutual Consent Adoption Registry.

23.10. Intercountry Adoption Services.

23.10.a. An agency offering intercountry adoption services shall have a written protocol that describes the process for handling intercountry placement and placement disruptions that provides for the well being of the child, including an alternate placement plan.

23.10.b. An agency offering intercountry adoption services shall have a written protocol that complies with the United States immigration laws and the laws of the sending country and protects the rights of the child and biological parents.

23.10.c. The agency shall seek legal counsel when necessary.

§78-2-24. Transitional Living Services Program.

24.1. An agency shall determine the availability and need to develop transitional living services for a child or young adult in his or her home community.

24.2. An agency shall have a manual of policies, procedures and forms for transitional living services, available to all employees that includes the following:

24.2.a. The information and documentation required under this licensing rule;

24.2.b. The date of implementation, review and revision of each policy, procedure or form; and

24.2.c. The reviews and revisions of the policies, procedures, and forms when required for legislative changes or a minimum of every five (5) years, and a provision that an agency encourage employees to participate in the review and revision process.

24.3. An agency shall operate in accordance with its written policies and procedures.

24.4. Eligibility Criteria for Transitional Living Services shall include:

24.4.a. Policies and provisions developed by an agency;

24.4.b. A child or young adult receiving transitional living placement services shall be a minimum of seventeen (17) years of age and not more than twenty-one (21) years of age;

24.4.c. A child less than eighteen (18) years of age shall have written permission from his or her parents or guardian to enter a transitional living arrangement;

24.4.d. An agency shall have a written service agreement with a child or young adult entering a transitional living arrangement, and an alternate placement plan for a child or young adult who is not successful in living independently;

24.4.e. An agency shall determine that a child or young adult has lived in a stable placement for three (3) months immediately preceding consideration for entry into a transitional living arrangement;

24.4.f. An agency shall do a written assessment of a child's or young adult's life skills prior to placing him or her in a transitional living arrangement; and

24.4.g. A child or young adult in transitional living shall be attending or have completed an educational or training program, and either seeking employment or already employed.

24.5. An agency shall develop, approve and maintain in the case record a monthly budget for each child or young adult that outlines income, savings, and expenditures.

24.6. The Department shall approve any roommates for a child or young adult prior to placement in transitional living settings.

24.7. An agency shall provide additional specific, service training to employees providing transitional living services prior to their direct work with a child or young adult.

24.8. A section in the service plan shall outline face-to-face contact and hours spent with a child or young adult in transitional living services that includes the minimum number of face-to-face contacts and minimum hours a child or young adult shall spend with an assigned agency employee and shall include a minimum of three (3) face-to-face contacts in the child's or young adult's residence per week and four (4) telephone contacts per week.

24.9. A minimum of once every six (6) months after a child or young adult is in transitional living placement, an agency shall assess the child's or young adult's progress in acquiring basic living skills.

24.10. An agency shall have policies and procedures to ensure that any child or young adult in transitional living receives appropriate health screening and services, including medical and dental.

24.11. An agency shall develop and follow procedures for the dwellings used for transitional living that includes provisions ensuring:

24.11.a. That an agency assist a child or young adult to find a safe, affordable dwelling;

24.11.b. That a dwelling comply with the State Fire Code and applicable health, zoning and building codes;

24.11.c. That a dwelling have a working telephone, and indoor cooking and bathing facilities;

24.11.d. That a dwelling is recognizable as residential accommodations;

24.11.e. That a dwelling not house more children or young adults in a transitional living program than the number the dwelling can accommodate, and the number of transitional living residents in a single apartment shall not exceed four (4); and

24.11.f. That a child or young adult is not placed in transient or overnight facility such as a rescue mission, motel, nonresidential hotel, emergency shelter, or tourist home.

24.12. A child or young adult shall have emergency services provisions while in transitional living including:

24.12.a. A twenty-four (24) hour a day, seven (7) day a week access to emergency services;

24.12.b. A plan developed by an agency for emergency medical care and emergency evacuation;

24.12.c. Training by the agency prior to or upon placement on how to use the agency's emergency telephone answering system; and

24.12.d. An agency employee designated to respond to the child or young adult within forty-five (45) minutes of the child's or young adult's call for assistance.

24.13. The planning team shall establish a minimum length of time to determine the child's or young adult's level of successful functioning in the transitional living program before he or she may be discharged.

24.14. The planning team shall develop an aftercare plan prior to discharge.

§78-2-25. Community Re-entry Program.

25.1. For children placed in a community re-entry program, an agency shall develop an operating manual, made available to employees and to applicants seeking employment, that includes:

25.1.a. The policies, procedures and forms for the plan of operation;

25.1.b. A complete and detailed description of the range of services offered and the process for implementing them;

25.1.c. The information and documentation required to be compiled by this licensing rule;

25.1.d. The date of implementation, review or revision of the policy, procedure or form; and

25.1.e. A description of the grievance procedure for expressing and resolving complaints or concerns.

25.2. An agency shall review and revise the policies, procedures and forms for the community re-entry program when required by legislative changes or at the time of application for a license or license renewal.

25.3. An agency shall provide employees and children or young adults placed in a community re-entry program an opportunity to participate in the review or revision process.

25.4. An agency shall operate in accordance with its written policies and procedures.

25.5. An agency shall develop eligibility criteria and policies for the community re-entry program including:

25.5.a. A child or young adult shall be a minimum of sixteen (16) and not more than twenty-one (21) years of age;

25.5.b. Before re-entry a child or young adult shall have a comprehensive evaluation to determine vocational interests, aptitude, basic life skills and psychological and social potential for self-support;

25.5.c. A child or young adult in transitional living shall be attending or have completed an educational or training program, and either seeking employment or already employed;

25.5.d. A scheduled plan for free time shall include, but is not limited to, community service, job preparation, drivers education, or basic living skills development;

25.5.e. A child or young adult in a community re-entry program shall be in the custody of the Department and referred by a Department employee;

25.5.f. The Department shall approve roommates of children or young adults in community re-entry settings before placement; and

25.5.g. An agency shall provide an alternate placement for the child or young adult who does not meet the level of success as determined by agency criteria.

25.6. An agency shall have policies to ensure that medical, dental and mental health services are provided to children and young adults in the community re-entry program including health screening, preventive care and emergency medical services.

25.7. An agency shall provide to the children or young adults in the community re-entry program, his or her parents or guardian, and the placing worker a copy of the agency's policies and procedures regarding re-entry including a written description of the roles and responsibilities of all parties involved in the placement.

25.8. An agency shall keep accurate, complete, and up-to-date records on each child or young adult in placement.

25.9. The minimum age of direct care employees for the community re-entry program shall be twenty-five (25) years old.

25.10. An agency shall develop a protocol to provide onsite supervision to children and young adults twenty-four (24) hours a day seven (7) days a week by designated employees, and additional support services as required for children or young adults with certain identified behaviors to ensure their health and safety.

25.11. An agency shall ensure that a dwelling in the community re-entry program:

25.11.a. Is hazard-free and functional inside and around its premises;

25.11.b. Is equipped and maintained in a manner that reflects the agency's positive regard for children and young adults in placement, and is suited to a child or young adult's individual needs;

25.11.c. Not include a transient or overnight type facility, including rescue missions, motels, hotels, emergency shelters, and tourist homes;

25.11.d. Complies with applicable state and local fire, safety, zoning, building, and health codes; and

25.11.e. Is equipped with a working telephone with emergency numbers posted by it, a first aid kit, safe and secure storage for medication and toxic substances.

25.12. An agency shall have a written protocol for dealing with emergencies, shall train employees, children or young adults in emergency protocol, including the use of the agency's emergency telephone service and procedures prior to or at the time of placement, and shall document the training in the employees and children's records.

§78-2-26. Grievance Procedure.

26.1. An agency shall have a written grievance procedure for children and families. The procedure shall be written in clear and simple language and shall include at least the following provisions:

26.1.a. An agency shall ensure that children and their biological families can express concerns or make complaints without fear of retaliation;

26.1.b. The grievance procedure shall assure due process; and

26.1.c. The child's primary case manager shall explain the procedure to the child and his or her biological parents or guardian upon admission and obtain written acknowledgment that an explanation of the procedure has been provided.

§78-2-27. Administrative Due Process.

27.1. Any person aggrieved by an order or other action by the Secretary based on this rule, or W. Va. Code §49-2B-1 et seq., may make a written request to the Secretary within thirty (30) days in accordance with the Division of Health rule, "Rules of Procedure for Contested Case Hearings and Declaratory Rulings," 64CSR1, a copy of which may be obtained from the Secretary of State.