

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

Form #2

Do Not Mark In This Box

FILED

2014 JUN 27 P 2:12

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Family Protection Services Board TITLE NUMBER: 191

RULE TYPE: Legislative CITE AUTHORITY: WV Code 48-26-403

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Operation of the Family Protection Advisory Board

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 28, 2014 AT noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Judy King
P.O.Box 4228
Morgantown, WV 26504

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

Judy King
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

191CSR1

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: Family Protection Services Board

Address: Family Protection Services Board
c/o Division of Justice and Community Services
1204 Kanawha Blvd. East
Charleston, WV 25301

Phone Number: 304 292-5100 (Judy King) Email: rdvic99@earthlink.net

Fiscal Note Summary

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

This measure will not effect the costs and revenues of state government. As stated, this rule is supported by special revenue accounts. The Domestic Violence Legal Services Fund and the Family Protection Fund provide support for this program.

Fiscal Note Detail

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

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

191CSR1

Rule Title: _____

Rule Title: _____

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

This rule will have no effect on the general revenue budget. It is paid for out of special revenue accounts. There is no increase or decrease in fees.

MEMORANDUM

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

This rule is supported by existing fees and will not necessitate increasing the fees. The Board is asking for the amount available for their work to be increased from 5% to 15% of their special revenue account.. There are no plans to increase funding at this time but since the board's work is increasing each year with additional programs applying for licensure, there is the potential for a need for additional staff during the effectiveness of this rule. This requires some flexibility.

Date: 6/26/14

Signature of Agency Head or Authorized Representative

Judith King

BRIEF SUMMARY OF RULE 191CSR1

This rule amends an existing rule. It includes the following:

§1 - This section covers scope and authority.

§2 - This section includes some new definitions including custodial responsibility and intimate partner. Because definitions were moved to the beginning of the rule, the entire section was underlined and the existing section was stricken.

§3 - This section establishes the purpose of the board, meeting requirements, board makeup, responsibilities of the chair, board authority to hire or contract with staff, and board's responsibility advise the Secretary of DHHR.

§4 - This section establishes that the Board will collect certain data to provide to the Governor and Legislature.

§5 - This section establishes licensure including the application, the expectations, the process of dealing with deficiencies, the issuance of the license, the review of existing licenses, the issuance of a provisional or conditional license and revocation procedures.

§6 - This section provides a judicial review process.

§7 - This provides funding information.

STATEMENT OF CIRCUMSTANCES THAT REQUIRED THE PROPOSED RULE

This rule has not been updated since 2003. In 2013, the WV Legislature passed HB2603 which updated the responsibilities of the Family Protection Services Board and all licensing programs for which the Board is responsible. Thus all of the associated rules are being amended to comply with the new code.

2014 JUN 27 P 2:12

TITLE 191
LEGISLATIVE RULE
FAMILY PROTECTION SERVICES BOARD

OFFICE OF THE CLERK
SECRETARY OF STATE

SERIES 1
OPERATION OF THE FAMILY PROTECTION SERVICES BOARD

1 §191-1-1. General.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

1.1. Scope -- This rule establishes the operating procedures of the Family Protection Services Board.

1.2. Authority -- W. Va. Code §§~~48-26-401(4), 48-26-404, 48-26-1003(a)~~; §48-26-403.

1.3. Filing Date --

1.4. Effective Date --

§191-1-2. Definitions.

For purposes of these rules, the following definitions shall apply:

2.1. "Advocacy" means assisting victims and survivors of domestic violence, dating violence, sexual assault, stalking or human trafficking, and their children, in securing rights, remedies and services, by directly providing for, or referring to public and private agencies to provide for, safety planning; shelter; housing; legal services; outreach; counseling; case management; information and referral; training; employment; child care; health care; transportation; financial literacy education, financial planning and related economic empowerment services; parenting and other educational services; and other support services.

2.2. "Batterer intervention and prevention program", previously referred to as a program of intervention for perpetrators, means a licensed educational program that provides classes to individuals who commit acts of domestic violence or abuse, offering nonviolent strategies and values that promote respect and equality in intimate partner relationships.

1
2 2.3. "Board" means the Family Protection Services Board
3 created pursuant to Chapter 53 of the Acts of the Legislature of
4 1989 and subsequently recodified by W. Va. Code ~~§48-26-301~~
5 §48.26.101 et seq.
6

7 2.4. "Closure" means the temporary or permanent prohibition
8 of specified services and the corresponding suspension of
9 licensure of a program or program component that violates the
10 standards established by the board or that threatens the health,
11 well being or safety of its program participants or staff.
12

13 2.5. "Custodial responsibility" refers to physical
14 custodianship and supervision of a child as defined in WV Code
15 §48-1-219. It ~~may include~~ usually includes, but does not
16 necessarily require, the exercise of residential or overnight
17 responsibility.
18

19 2.6. "Department" means the Department of Health and Human
20 Resources or any successor agency however so named.
21

22 2.7. "Domestic Violence Legal Services Fund" means the
23 special revenue account established by WV Code § 48-26-603 for
24 the purposes set forth in that section.
25

26 2.8. "Family Protection Fund" means the special revenue
27 account established by Chapter 74 of the Acts of the Legislature
28 of 1981, held by the department, for the purpose of collecting
29 marriage license fees pursuant to WV Code §59-1-10, divorce
30 surcharge fees pursuant to WV Code §59-1-28-a, fees for failure
31 to present a premarital education course completion certificate
32 pursuant to WV Code § 59-1-10 and any other funding source,
33 including any source created in another section of WV Code, and
34 distributed to licensed domestic violence programs, in accordance
35 with the formula designated by the board.
36

37 2.9. "Domestic violence program" means a licensed program of
38 a locally controlled nonprofit organization, established
39 primarily for the purpose of providing advocacy services,
40 comprising both a shelter component and an outreach component, to
41 victims of domestic violence, dating violence, sexual assault,
42 stalking or human trafficking, and their children: *Provided, That*
43 the board may temporarily or permanently close either the shelter

191CSRI

1 component or the outreach component of a domestic violence
2 program.
3

4 2.10. "Intimate partner" means a current or former spouse, a
5 person with whom one shares a child in common, a person with whom
6 one is cohabiting or has cohabited, or a person with whom one is
7 or has been in a relationship of a romantic or intimate nature.
8

9 2.11. Licenses defined.
10

11 2.11.a. "Conditional license" means a license issued for up
12 to ninety days, to programs that have violations of safety or
13 accountability standards that may threaten the health, well-being
14 or safety of its program participants or staff, or the
15 responsible operation of the program, or that have a history or
16 pattern of noncompliance with established standards.
17

18 2.11.b. "Provisional license" means a license issued for up
19 to one hundred and eighty days, to programs that are not in
20 compliance with nonlife threatening safety, programmatic,
21 facility or administrative standards, that may be extended for an
22 additional six months, if the board determines that the program
23 is making active progress toward compliance.
24

25 2.11.c. "Full license" means a license issued for up to the
26 maximum licensure period of three years, to programs that are in
27 compliance with the standards established by the board and have
28 no violations of safety or accountability standards that may
29 threaten the health, well-being or safety of its program
30 participants or staff, or the responsible operation of the
31 program.
32

33 2.12. "Monitored exchange" means the observation of movement
34 of a child or children from the custodial responsibility of one
35 parent or guardian to the custodial responsibility of the other
36 parent or other adult without allowing contact between the
37 adults.-
38

39 2.13. "Monitored parenting" means the contact between a non-
40 custodial parent without custodial responsibility, guardian or
41 other adult and one or more children, in the presence of a third
42 person who monitors the contact to promote the safety of the
43 participants.
44

1 2.14. "Monitored parenting and exchange program" means a
2 licensed program offered by a locally controlled nonprofit
3 organization for purposes of providing a neutral, safe and
4 child-friendly environment to allow the child or children access
5 to a parent or other adult without allowing contact between the
6 adults.

7
8 2.15. "Outreach" means a licensed domestic violence program's
9 community-based activities that increase awareness and
10 availability of services, in every county within the program's
11 regional service area, to victims and survivors of domestic
12 violence, dating violence, sexual assault, stalking or human
13 trafficking, and their children.

14
15 2.16. "Partner Agencies" means state and community
16 organizations whose mission and purpose require their response to
17 the needs of victims of domestic violence and their children.

18
19 2.17. "Secretary" means the Secretary of the Department of
20 Health and Human Resources.

21
22 2.18. "Shelter" means residential services offered by a
23 licensed domestic violence program on a temporary basis, to
24 persons who are victims of domestic violence, dating violence,
25 sexual assault, stalking or human trafficking, and their
26 children.

27
28 **§191-1-2. §191-1-3. Purposes of the Board.**

29
30 ~~2.1. 3.1. The purposes of the Board are to provide ongoing~~
31 ~~administration and allocation of the West Virginia Family~~
32 ~~Protection Funds; to establish and enforce a system of standards~~
33 ~~for the annual licensure of domestic violence programs and~~
34 ~~perpetrator intervention programs; to establish and enforce a~~
35 ~~system of standards for the annual certification monitored~~
36 ~~parenting and exchange centers; to research and study issues~~
37 ~~pertinent to programs for victims of domestic violence and report~~
38 ~~the results to the Governor and the Legislature. receive and~~
39 ~~consider applications for licensure of domestic violence~~
40 ~~programs, batterer intervention and prevention programs and~~
41 ~~monitored parenting and exchange programs; assess the need for~~
42 ~~domestic violence programs, batterer intervention and prevention~~
43 ~~programs and monitored parenting and exchange programs, including~~
44 ~~the use of licensure pre-application and application processes;~~

1 conduct licensure renewal reviews of domestic violence programs,
 2 batterer intervention and prevention programs and monitored
 3 parenting and exchange programs, that will ensure the safety,
 4 well-being and health of the programs' participants and staff;
 5 allocate the Family Protection Fund and direct the Department of
 6 Health and Human Resources to distribute funds to licensed
 7 domestic violence programs in accordance with a formula
 8 determined by the board; submit an annual report on the
 9

10 ~~2.2.b. 3.2.b.~~ All meetings will be publicly announced in
 11 accordance with W. Va. Code §6-9A-3 with notice to the Secretary
 12 of State's Office. That notice shall include the time, place and
 13 purpose of the meeting. The Board shall, in accordance with
 14 state law, hold open meetings except when an executive session is
 15 necessary for the discussion of sensitive issues regarding the
 16 issuance, denial, or suspension ~~or revocation~~ of a license and
 17 Board personnel. This exception will be effective only with a
 18 consensus of the Board members present. ~~An open meeting~~
 19 ~~regarding the issuance, denial, suspension or revocation of a~~
 20 ~~license may be held at the request of the agency whose license is~~
 21 ~~in question.~~ If an emergency session is necessary, the Board
 22 shall file a notice with the Secretary of State's Office any time
 23 prior to the meeting. Such notice shall state the time, place
 24 and purpose of the meeting ~~and the facts and circumstances of the~~
 25 ~~emergency.~~

26
 27 ~~2.2.c. 3.2.c.~~ Meetings may be held with a ~~quorum of three~~
 28 majority of the Board members present.
 29

30 ~~2.2.d. 3.2.d.~~ Officers will include a chair, a vice-chair,
 31 and a secretary/treasurer who will be selected on an annual
 32 basis. ~~The selection process will be held during the second~~
 33 ~~quarter meeting.~~ Terms of office will begin on July 1 of each
 34 year and will end the following June 30. Selection shall be made
 35 by a majority of the constituent membership.
 36

37 ~~2.2.e. 3.2.e.~~ ~~Only the chair or the vice chair~~ The chair may
 38 designate another member to conduct meetings of the Board.
 39

40 ~~2.2.f. 3.2.f.~~ The chair will have the following
 41 responsibilities and duties. (1) call and conduct all meetings;
 42 (2) participate in plan planning agendas for meetings; (3) speak
 43 as the official voice of the Board ~~with media, the W. Va.~~
 44 ~~Legislature, the West Virginia Coalition Against Domestic~~

1 ~~Violence, the programs licensed and funded by the Board, the~~
 2 ~~Attorney General's Office, the general public, and with all~~
 3 ~~organizations inquiring about licensure and funding , except in~~
 4 ~~situations where the chair designates responsibility to another~~
 5 ~~member or staff;~~ and (4) supervise the duties of the staff of the
 6 Board.

7
 8 ~~2.2.g.~~ 3.2.g. The vice-chair will assume any or all of the
 9 responsibilities and duties of the chair in the chair's absence.
 10 ~~, unless the chair designates a responsibility or duty to another~~
 11 ~~member.~~

12
 13 ~~2.2.h.~~ 3.2.h. The Board shall hire or contract staff to
 14 complete the Board's work as necessary. Funds will be allocated
 15 for this purpose from the ~~five (5%)~~ fifteen percent (15%) of
 16 funds allowed by law for the cost of administering provisions of
 17 ~~§48-26-401(12)~~ §48-26-401(5).

18
 19 ~~2.2.i.~~ 3.2.i. Expenses incurred by Board members while
 20 pursuing the work of the Board shall be reimbursed by the funds
 21 designated for administrative activities. Board members shall,
 22 at all times, comply with the most current State of West Virginia
 23 travel regulations. The Board shall supply its members and staff
 24 with appropriate forms to request reimbursement. The ~~ex-officio~~
 25 designated members of the Board who serve by virtue of their
 26 positions shall request reimbursement for expenses through their
 27 employing agency or appointing committee.

28
 29 ~~2.2.j.~~ 3.2.j. The Board ~~shall~~ may advise the Secretary of
 30 the Department of Human Services and the chair of the Governor's
 31 Committee on Crime, Delinquency and Correction on matters of
 32 concern relative to his or her responsibilities under W. Va. Code
 33 §§48-26-101 et seq. and the Board ~~shall~~ may delegate to the
 34 ~~commissioner~~ Secretary such powers and duties of the Board as the
 35 Board may deem appropriate to delegate, including, but not
 36 limited to, the authority to approve, disapprove, revoke or
 37 suspend licenses.

38
 39 ~~§191-1-3. Definitions~~

40
 41 ~~For purposes of these rules, the following definitions shall~~
 42 ~~apply.~~

1 ~~"Advocacy" means assisting victims and survivors of domestic~~
2 ~~violence, dating violence, sexual assault, stalking or human~~
3 ~~trafficking, and their children, in securing rights, remedies and~~
4 ~~services, by directly providing for, or referring to public and~~
5 ~~private agencies to provide for, safety planning, shelter,~~
6 ~~housing, legal services, outreach, counseling, case management,~~
7 ~~information and referral, training, employment, child care,~~
8 ~~health care, transportation, financial literacy education,~~
9 ~~financial planning and related economic empowerment services,~~
10 ~~parenting and other educational services, and other support~~
11 ~~services.~~

12
13 ~~"Batterer intervention and prevention program", previously~~
14 ~~referred to as a program of intervention for perpetrators, means~~
15 ~~a licensed educational program that provides classes to~~
16 ~~individuals who commit acts of domestic violence or abuse,~~
17 ~~offering nonviolent strategies and values that promote respect~~
18 ~~and equality in intimate partner relationships.~~

19
20 3.1. ~~"Board" means the Family Protection Services Board created~~
21 ~~pursuant to Chapter 53 of the Acts of the Legislature of 1989 and~~
22 ~~subsequently recodified by W. Va. Code §48-26-301.~~

23
24 ~~"Closure" means the temporary or permanent prohibition of~~
25 ~~specified services and the corresponding suspension of licensure~~
26 ~~of a program or program component that violates the standards~~
27 ~~established by the board or that threatens the health, well being~~
28 ~~or safety of its program participants or staff.~~

29
30 ~~3.2. "Custodial parent" means a biological parent, adoptive~~
31 ~~parent, legal guardian, state agency and its representatives who~~
32 ~~has temporary or permanent legal custody of a child.~~

33
34 ~~3.3. "Custodial responsibility" refers to physical~~
35 ~~custodianship and supervision of a child as defined in WV Code~~
36 ~~§48-1-219. It may include usually includes, but does not~~
37 ~~necessarily require, the exercise of residential or overnight~~
38 ~~responsibility.~~

39
40 ~~3.4. "Department" means the Department of Health and Human~~
41 ~~Resources or any successor agency however so named.~~

42

191CSRI

1 ~~"Domestic Violence Legal Services Fund" means the special revenue~~
2 ~~account established by WV Code § 48-26-603 for the purposes set~~
3 ~~forth in that section.~~

4
5 ~~"Family Protection Fund" means the special revenue account~~
6 ~~established by Chapter 74 of the Acts of the Legislature of 1981,~~
7 ~~held by the department, for the purpose of collecting marriage~~
8 ~~license fees pursuant to WV Code §59-1-10, divorce surcharge fees~~
9 ~~pursuant to WV Code §59-1-28 a, fees for failure to present a~~
10 ~~premarital education course completion certificate pursuant to WV~~
11 ~~Code § 59-1-10 and any other funding source, including any source~~
12 ~~created in another section of WV Code, and distributed to~~
13 ~~licensed domestic violence programs, in accordance with the~~
14 ~~formula designated by the board.~~

15
16 3.5. ~~"Family Protection Program" means a licensed domestic or~~
17 ~~family violence program offered by a locally controlled~~
18 ~~non-profit organization created primarily for the purpose of~~
19 ~~providing services, including residential shelters and outreach~~
20 ~~services, to victims of domestic violence or abuse and their~~
21 ~~children. "Domestic violence program" means a licensed program of~~
22 ~~a locally controlled nonprofit organization, established~~
23 ~~primarily for the purpose of providing advocacy services,~~
24 ~~comprising both a shelter component and an outreach component, to~~
25 ~~victims of domestic violence, dating violence, sexual assault,~~
26 ~~stalking or human trafficking, and their children: Provided, That~~
27 ~~the board may temporarily or permanently close either the shelter~~
28 ~~component or the outreach component of a domestic violence~~
29 ~~program.~~

30
31 ~~"Intimate partner" means a current or former spouse, a person~~
32 ~~with whom one shares a child in common, a person with whom one is~~
33 ~~cohabiting or has cohabited, or a person with whom one is or has~~
34 ~~been in a relationship of a romantic or intimate nature.~~

35
36 ~~Licenses defined.~~

37 ~~(a) "Conditional license" means a license issued for up to ninety~~
38 ~~days, to programs that have violations of safety or~~
39 ~~accountability standards that may threaten the health, well-being~~
40 ~~or safety of its program participants or staff, or the~~
41 ~~responsible operation of the program, or that have a history or~~
42 ~~pattern of noncompliance with established standards.~~

43 ~~(b) "Provisional license" means a license issued for up to one~~
44 ~~hundred and eighty days, to programs that are not in compliance~~

1 ~~with nonlife threatening safety, programmatic, facility or~~
 2 ~~administrative standards, that may be extended for an additional~~
 3 ~~six months, if the board determines that the program is making~~
 4 ~~active progress toward compliance.~~

5 -

6 ~~(c) "Full license" means a license issued for up to the maximum~~
 7 ~~licensure period of three years, to programs that are in~~
 8 ~~compliance with the standards established by the board and have~~
 9 ~~no violations of safety or accountability standards that may~~
 10 ~~threaten the health, well being or safety of its program~~
 11 ~~participants or staff, or the responsible operation of the~~
 12 ~~program.~~

13
 14 ~~3.6. "Monitored exchange" means the supervision observation~~
 15 ~~of movement of a child to the noncustodial parent at the start of~~
 16 ~~the visit and back to the custodial parent at the end of the~~
 17 ~~visit. or children from the custodial responsibility of one~~
 18 ~~parent or guardian to the custodial responsibility of the other~~
 19 ~~parent or other adult without allowing contact between the~~
 20 ~~adults. This type of monitored contact is for those cases in~~
 21 ~~which contact causes conflict between the adults but the contact~~
 22 ~~between the parent and child could be expected to proceed without~~
 23 ~~incident.~~

24
 25 ~~3.7. "Monitored parenting" means the contact between a~~
 26 ~~non-custodial parent without custodial responsibility, guardian~~
 27 ~~or other adult and one or more children, in the presence of a~~
 28 ~~third person responsible for observing and ensuring the safety of~~
 29 ~~those involved who monitors the contact to promote the safety of~~
 30 ~~the participants.~~

31
 32 ~~"Monitored parenting and exchange program" means a licensed~~
 33 ~~program offered by a locally controlled nonprofit organization~~
 34 ~~for purposes of providing a neutral, safe and child friendly~~
 35 ~~environment to allow the child or children access to a parent or~~
 36 ~~other adult without allowing contact between the adults.~~

37
 38 ~~3.8. "Noncustodial parent" means a biological parent or other~~
 39 ~~adult authorized by a court to have supervised contact with a~~
 40 ~~child~~

41
 42 ~~3.9. "Outreach Service" means a licensed domestic violence~~
 43 ~~program's community based activities that increase awareness and~~
 44 ~~availability of services, in every county within the program's~~

1 ~~regional service area, to victims and survivors of domestic~~
 2 ~~violence, dating violence, sexual assault, stalking or human~~
 3 ~~trafficking, and their children. service formally associated with~~
 4 ~~a licensed family protection program and established for the~~
 5 ~~purposes of providing direct services, community education and~~
 6 ~~prevention activities, information, referral, safety planning and~~
 7 ~~crisis counseling to victims of domestic violence.~~

8
 9 ~~—3.10. "Participant" means the custodial parent, the~~
 10 ~~noncustodial parent, or the child receiving monitored contact.~~

11
 12 ~~—3.11. "Partner Agencies" means state and community~~
 13 ~~organizations whose mission and purpose require their response to~~
 14 ~~the needs of victims of domestic violence and their children. ???~~
 15 ~~Need?~~

16
 17 ~~—3.12. "Perpetrator Intervention Program" means a licensed~~
 18 ~~perpetrator intervention program that accepts perpetrators of~~
 19 ~~domestic violence or family violence into educational~~
 20 ~~intervention groups.~~

21
 22 ~~—3.13. "Secretary" means the Secretary of the Department of~~
 23 ~~Health and Human Resources.~~

24
 25 ~~—3.14. "Shelter" means residential services offered by a~~
 26 ~~licensed domestic violence program on a temporary basis, to~~
 27 ~~persons who are victims of domestic violence, dating violence,~~
 28 ~~sexual assault, stalking or human trafficking, and their~~
 29 ~~children. a locally controlled non-profit organization created~~
 30 ~~primarily for the purpose of receiving, on a temporary basis,~~
 31 ~~individuals who are victims of domestic violence, abuse or rape~~
 32 ~~and their children and for providing services to these~~
 33 ~~individuals as specified in Series 2 of the Board's rules.~~

34
 35 ~~—3.15. "Supervised visitation" means the provision of~~
 36 ~~therapeutic evaluation and/or intervention to help improve the~~
 37 ~~parent-child interactions. Supervised visitation may only be~~
 38 ~~provided by order of a court and only by trained certified or~~
 39 ~~licensed mental health professionals or social workers.~~

40
 41 **§191-1-4. Board Reports**

42
 43 The Board shall collect data about licensed programs for use
 44 in an annual report on the status of licensed programs to be

1 submitted to the Governor and the Joint Committee on Government
 2 and Finance. study issues pertinent to family protection programs
 3 for domestic violence victims and prepare an annual report the to
 4 governor and the Legislature within the first 20 days of the
 5 Legislative session regarding those issues.

6
 7 **§191-1-5. Licensure of Family Protection Domestic Violence**
 8 **Programs, Perpetrator Batterer Intervention and Prevention**
 9 **Programs, and Shelters Monitored Parenting and Exchange Programs.**

10
 11 All family protection domestic violence, perpetrator batterer
 12 intervention and prevention programs and shelters and monitored
 13 parenting and exchange programs must be licensed by the Board in
 14 order to provide services to victims and/or perpetrators. The
 15 Board shall enforce standards and a process for the annual
 16 licensure for all family protection and perpetrator intervention
 17 programs and shelters in the state.

18
 19 ~~5.1.e.~~ The Board shall, by certified letter, notify any
 20 organization operating without a license as a family protection
 21 domestic violence, perpetrator batterer intervention and
 22 prevention program or a shelter monitored parenting and exchange
 23 program of its right to apply for licensure. The Board shall may
 24 petition the circuit court for an order preventing the operation
 25 of any organization which refuses to obtain a license as required
 26 under this rule and W. Va. Code §§48-26-101 et seq.

27
 28 5.1. License Application

29
 30 5.1.a. The Board shall provide a standard license
 31 application to any organization that wishes to establish a family
 32 protection or perpetrator intervention programs and/or shelter
 33 upon request establish preliminary application and full
 34 application forms for the initial licensing of domestic violence
 35 programs, batterer intervention and prevention programs and
 36 monitored parenting and exchange programs.

37
 38 The organization must complete an application apply when it
 39 initially requests licensure and meet basic criteria as
 40 determined by the Board or when it wishes to reopen after
 41 closure. After initial licensure, family protection and
 42 perpetrator intervention programs and shelters shall be evaluated
 43 by the Board on an annual basis, and an on-site review will be
 44 conducted every two years.

191CSRI

1 To meet basic eligibility requirements an applicant for
2 licensure must complete a preliminary application form to
3 demonstrate local need for the proposed service, method of
4 governance and accountability, administrative and programmatic
5 design, and fiscal efficiency. The board shall respond in writing
6 within sixty days of receipt of the preliminary application;
7

8 If the board approves the preliminary application, the
9 applicant may complete a full application form;
10

11 The board shall determine whether all documentation set
12 forth on the licensure checklist of the full application has been
13 submitted, and may request supplemental or clarifying information
14 or documentation;
15

16 The board shall grant or deny a license within sixty days of
17 the receipt of the completed full application form and all
18 supplemental or clarifying information or documentation requested
19 by the board.
20

21 ~~5.1.b. The Board shall consider all applications submitted~~
22 ~~for licensure in light of the need for services, the ability of~~
23 ~~the applicant to successfully operate a family protection,~~
24 ~~perpetrator intervention program, or a shelter, the applicant's~~
25 ~~ability to obtain adequate funding for the delivery of services,~~
26 ~~the capacity of the program to comply with the Board's standards,~~
27 ~~and the applicant's interest and ability to provide quality~~
28 ~~services.~~
29

30 ~~5.1.c. 5.1.b.~~ If the Board finds that an application
31 contains deficiencies which do not require denial of application,
32 ~~the application and a list of deficiencies will be returned~~
33 provided to the applicant, and the applicant will have thirty
34 (30) days to resubmit a revised application along with a due date
35 for receipt of additional information.
36

37 ~~5.1.d. 5.1.c.~~ The Board shall renew, ~~on an annual basis,~~ the
38 licenses of all family protection domestic violence, and
39 perpetrator batterer intervention and prevention programs and
40 shelters monitored parenting and exchange programs that are in
41 compliance with this rule and with Series 2, ~~or 3, 4 or 5~~ of the
42 Board's rules. Forms for license renewal shall be distributed by
43 the Board to licensed ~~family protection, and perpetrator~~
44 ~~intervention programs, and shelters~~ in a timely manner no later

1 than the fifteenth thirty-first day of March each year.

2
3 ~~5.1.e. The Board shall, by certified letter, notify any~~
4 ~~organization operating without a license as a family protection,~~
5 ~~perpetrator intervention program or a shelter of its right to~~
6 ~~apply for licensure. The Board shall petition the circuit court~~
7 ~~for an order preventing the operation of any organization which~~
8 ~~refuses to obtain a license as required under this rule and W.~~
9 ~~Va. Code §§48-26-101 et seq.~~

10
11 5.2. Issuance of A License

12
13 5.2.a. The Board shall issue ~~a~~ an initial or renewal
14 license to any organization which has applied for a license and
15 been approved by the Board as having complied with all
16 established standards set forth in this rule and in Series 2, or
17 3, 4, or 5 of the Board's rules or any rules subsequently
18 promulgated. Compliance with the standards shall be evaluated by
19 peer reviewers, by Board members, by Board staff, by other
20 knowledgeable persons, or by any a combination thereof as
21 determined by the Board.

22
23 5.2.b. All initial licenses shall be valid for up
24 to one (1) year commencing on the first day of July and
25 terminating on the thirtieth day of June of the next year. The
26 Board shall grant or deny license within forty-five (45) days of
27 receiving the license application. The Board may conduct
28 licensure reviews at any time during the licensure period, and
29 may downgrade, suspend or revoke a license. Every licensed family
30 protection, perpetrator intervention program and shelter shall
31 conspicuously display the license.

32
33 5.3. Evaluation for Review of Existing Licensure

34
35 5.3.a. The Board shall ~~annually evaluate~~ review all
36 licensed family protection domestic violence, perpetrator
37 batterer intervention and prevention and monitored parenting and
38 exchange programs, and shelters operating in the state prior to
39 the expiration of the existing license and will review all
40 programs and shelters on-site a minimum of once every two years.
41 The evaluation review will be conducted using a checklist and
42 documentation of compliance with the licensing standards found in
43 Series 2 and 3 through 5 of the Board's rules.
44

191CSRI

1 5.3.b. The Board shall ~~annually~~ assure an on-site review of
2 the established standards found in this rule for at least one-
3 half of all ~~licensed~~ programs which are licensed for a year or
4 less. Review of the remaining programs which are licensed for a
5 year or less shall be determined by the Board. The Board shall
6 conduct, prior to the expiration of the license, an on-site
7 review of all programs which are licensed for more than one year.
8 The standards compliance review will be completed utilizing the
9 most current revision of the standards checklist authorized by
10 the Board. ~~The annual evaluation will be scheduled in a timely~~
11 ~~manner by the Board to allow the Board to consider the results~~
12 ~~prior to the expiration of the current year's license.~~
13

14 5.3.c. Any areas of non-compliance shall be ~~reported~~
15 documented on the licensing review summary form checklist by the
16 person(s) authorized by the Board to conduct the review. The
17 Board shall review each area of non-compliance and consider the
18 relative risk it poses to the health, safety and well-being of
19 individuals being served by the ~~family protection domestic~~
20 violence, perpetrator batterer intervention and prevention or
21 monitored parenting and exchange program, or shelter and staff
22 employed by the program ~~or shelter~~.
23

24 The board may conduct licensure reviews at any time during
25 the licensure period, and may downgrade, suspend or revoke a
26 license.
27

28 5.3.d. The Board may contact the program's ~~or shelter's~~
29 partner agencies to determine program effectiveness in
30 relationship to community needs.
31

32 ~~5.4. Waiver of Licensure.~~
33

34 ~~The Board may grant a waiver of licensure if the Board finds~~
35 ~~it necessary for the good of victims or perpetrators who would be~~
36 ~~served by the family protection, perpetrator intervention program~~
37 ~~or shelter in question. The Board shall review all waivers semi-~~
38 ~~annually.~~
39

40 ~~5.5.~~ 5.4. Issuance of a Provisional or Conditional License.
41

42 ~~5.5.a.~~ 5.4.a. The Board may grant provisional
43 licensure ~~if the Board finds it necessary for the good of~~
44 ~~participants who will be served by the family protection,~~

191CSRI

1 ~~perpetrator intervention program, or shelter in question for up~~
2 ~~to one hundred and eighty days, to a program that is not in~~
3 ~~compliance with non-life threatening safety, programmatic,~~
4 ~~facility or administrative standards. A provisional license may~~
5 ~~be extended for up to an additional one hundred and eighty days,~~
6 ~~if the board, in its sole discretion, determines that the program~~
7 ~~is making active progress toward compliance. All provisional~~
8 ~~certifications shall be reviewed semi-annually.~~
9

10 The Board may grant conditional licensure for up to ninety
11 days to a program that has violations of safety or accountability
12 standards that may threaten the health, well-being or safety of
13 its participants or staff, or the responsible operation of the
14 program, or that have a history or pattern of noncompliance with
15 established standards. If a program does not correct the
16 violations within the conditional license period, the board may
17 institute closure proceedings.
18

19 ~~5.5.b. 5.4.b.~~ Upon a finding by the Board that a family
20 ~~protection domestic violence, perpetrator batterer~~ intervention
21 ~~and prevention or monitored parenting and exchange program, or~~
22 ~~shelter is not in compliance with this rule and is eligible for a~~
23 ~~provisional or conditional license, the Board may issue a~~
24 ~~provisional license and shall give the family protection,~~
25 ~~perpetrator intervention program or shelter~~ written notice of
26 deficiency that shall include, but not be limited to the
27 following:
28

29 ~~5.5.b.1. 5.4.b.1.~~ A statement of program deficiencies or
30 need for additional information.
31

32 ~~5.5.b.2. 5.4.b.2.~~ A requirement to submit a plan of correction
33 regarding the deficiencies or additional information.
34

35 ~~5.5.b.3. 5.4.b.3.~~ A timeline for the ~~Board's~~ review
36 submission of the plan of correction or additional information.
37

38 ~~5.5.b.4. A requirement that the plan be modified and~~
39 ~~resubmitted to the Board within twenty (20) days should the~~
40 ~~original plan not address the identified deficiencies.~~
41

42 ~~5.5.b.5. 5.4.b.4.~~ A requirement that compliance occur
43 within a time period set by the Board.
44

1 ~~5.5.b.6. Verification of the issuance of a provisional~~
2 ~~license until compliance is achieved or until the Board takes~~
3 ~~action deemed necessary for the safety of the clients.~~
4

5 ~~5.6.~~ 5.5. Revocation or Suspension of a License and Closure of
6 a Licensed Program.
7

8 The Board may suspend or revoke a license and, in connection
9 therewith temporarily or permanently close any family protection
10 domestic violence, perpetrator batterer intervention and prevention
11 or monitored parenting and exchange program or shelter that
12 violates the standards established under Series 2 and 3, 4, or 5 of
13 the Board's rules, or that threatens the health, well-being or
14 safety of its participants or staff, subject to the requirements in
15 this rule regarding public hearings under ~~subdivision d~~ of this
16 subsection 5.6. ~~of these rules.~~
17

18 If either the shelter component or the outreach component of
19 a domestic violence program is closed, the remaining component of
20 the program may continue to be licensed and to receive funds.
21

22 If a shelter is closed, the governing body of the program, in
23 conjunction with the board, shall establish a plan to place the
24 participants in other shelters or alternative housing.
25

26 ~~5.6.a.~~ 5.5.a. ~~Four members of the Board must vote in the~~
27 ~~affirmative before a license may be revoked or suspended. In order~~
28 ~~to close a domestic violence program or one of its components, a~~
29 ~~batterer intervention and prevention program or a monitored~~
30 ~~parenting and exchange program, the board must vote unanimously in~~
31 ~~the affirmative.~~
32

33 ~~5.6.b.~~ ~~When there is an immediate threat to the health, well-~~
34 ~~being and safety of shelter residents, or an unplanned closure by~~
35 ~~the family protection program's or shelter's governing board, the~~
36 ~~Board shall place the residents and/or participants in other family~~
37 ~~protection programs or shelters, or some other appropriate safe and~~
38 ~~secure place.~~
39

40 ~~5.6.c.~~ 5.5.b. The Board shall send written notice of the
41 license revocation or suspension by certified mail to the president
42 of the family protection domestic violence, perpetrator batterer
43 intervention and prevention, program's or shelter's or monitored
44 parenting and exchange program's governing board. The notice

1 shall include a statement of the program's ~~or shelter's~~ alleged
2 violations of this rule. The program's ~~or shelter's~~ board of
3 directors will have fifteen (15) days after receipt of the notice,
4 to respond to the allegations. This response shall be in writing.
5 If there is no written response, the Board will proceed with the
6 revocation or suspension of the program's ~~or shelter's~~ license.
7 The Board will not provide funds to a ~~family protection,~~
8 ~~perpetrator intervention program or shelter~~ whose license has been
9 revoked or suspended; however, the board may temporarily or
10 permanently close either the shelter component or the outreach
11 component of a domestic violence program and the remaining
12 component of the program may continue to be licensed and to receive
13 funds.

14
15 ~~5.6.d. If the Board is provided with a response to the~~
16 ~~violations, a public hearing will be held within thirty (30) days~~
17 ~~in the municipality or county in which the program is located.~~
18

19 5.6. Hearing Procedures: Judicial Review.

20
21 5.6.1. When a license for a program is downgraded or
22 discontinued through permanent or temporary closure, the program's
23 governing body is entitled to a hearing before the board.
24

25 5.6.1.a. Hearings shall be held in accordance with the
26 provisions of article five, chapter twenty-nine-a of this code.
27

28 5.6.1.b. The board may conduct the hearing or elect to have a
29 hearing examiner or an administrative law judge conduct the
30 hearing. If the hearing is conducted by a hearing examiner or an
31 administrative law judge:
32

33 5.6.1.b.1. The hearing examiner or administrative law judge
34 shall be licensed to practice law in this state and shall conform
35 to the Code of Conduct for Administrative Law Judges as set forth
36 by the Ethics Commission in legislative rule;
37

38 5.6.1.b.2. At the conclusion of a hearing, the hearing
39 examiner or administrative law judge shall prepare a proposed
40 written order containing recommended findings of fact and
41 conclusions of law and may include recommended sanctions, including
42 closure, if the board so directs;
43

1 5.6.1.b.3. The board may accept, reject, modify or amend the
2 recommendations of the hearing examiner or administrative law
3 judge; and

4
5 5.6.1.b.4. If the board rejects, modifies or amends the
6 recommendations, the board shall state in the order a reasoned,
7 articulate justification based on the record for the rejection,
8 modification or amendment.

1
2 5.6.2. Pursuant to the provisions of section one, article
3 five, chapter twenty-nine-a of this code, informal disposition may
4 also be made by the board by stipulation, agreed settlement,
5 consent order or default. Further, the board may suspend its
6 decision and place a license on conditional or provisional status.

7
8 5.6.3. A licensee adversely affected by a decision of the
9 board entered after a hearing may seek an appeal to the Circuit
10 Court, in accordance with the provisions of section four, article
11 five, chapter twenty-nine-a of this code, and may appeal a decision
12 of the Circuit Court to the West Virginia Supreme Court of Appeals,
13 in accordance with the provisions of article six, chapter
14 twenty-nine-a of this code.

15
16 5.6.4. The Board shall adopt policies and procedures related
17 to hearings as defined in §48-26-408 by July 1, 2015.

18
19 **§191-1-6. Domestic Violence Legal Services Fund.**

20
21 6.1. Fund allocation

22
23 The Board annually allocates the Domestic Violence Legal
24 Services Fund for distribution by the Department. Any change in
25 the amount allocated shall be approved by the Board, based on the
26 Board's determination of need and a review of financial status by
27 the Department.

28
29 6.2. Expenditures and Fees

30
31 6.2.a. Expenditures from the fund shall be limited to
32 attorneys employed or contracted by licensed domestic violence
33 programs, or employed or contracted by West Virginia's federally
34 designated legal services program, its successor organization or
35 other nonprofit organization as determined by the department,
36 that establish a collaborative relationship with a licensed

37 domestic violence program, to provide civil legal services to
38 victims of domestic violence.
39

1 6.2.b. Any court of this state may order a nonprevailing
2 party to pay an amount equivalent to the reasonable attorney's
3 fee to which the prevailing litigant would be entitled into the
4 Domestic Violence Legal Services Fund, established in subsection
5 (a) of this section, if the following circumstances occur:
6

7 6.2.b.1. A prevailing litigant is entitled by statute or
8 common law to a reasonable attorney's fee, and
9

10 6.2.b.2. The prevailing litigant's legal counsel informs the
11 court that no fee will be requested.
12

13 **§191-1-7. Confidentiality.**
14

15 7.1. No program licensed by the Family Protection Services
16 Board may disclose, reveal or release or be compelled to
17 disclose, reveal or release, any written records or personal or
18 personally identifying information about a program participant
19 created or maintained in providing services, regardless of
20 whether the information has been encoded, encrypted, hashed, or
21 otherwise protected, pursuant to s article 701 of W.Va. Code
22 Chapter 48-26 except:
23

24 7.1.a. Upon written consent, or upon oral consent in
25 emergency situations defined by legislative rule, of the person
26 seeking or who has sought services from the program;
27

28 7.1.b. In any proceeding brought under sections four and
29 five, article six, chapter nine of this code or article six,
30 chapter forty-nine of this code;
31

32 7.1.c. As mandated by article six-a, chapter forty-nine and
33 article six, chapter nine of this code;
34

35 7.1.d. Pursuant to an order of any court based upon a
36 finding that said information is sufficiently relevant to a
37 proceeding before the court to outweigh the importance of
38 maintaining the confidentiality established by this section;
39

40 7.1.e. To protect against a clear and substantial danger of
41 imminent injury by a person receiving services to himself or

1 herself or another; or
2

3 7.1.f. As authorized by the releases signed by batterer
4 intervention and prevention program participants pursuant to the
5 provisions of subsection (b) of this section.
6

7 7.2. Batterer intervention and prevention program
8 participants shall authorize the release of information by
9 signing the following releases:
10

11 7.2.a. Allowing the provider to inform the victim or
12 alleged victim and the victim's advocates that the batterer is
13 participating in a batterer intervention and prevention program
14 with the provider and to provide information to the victim or
15 alleged victim and her or his advocates, if necessary, for the
16 victim's or alleged victim's safety;
17

18 7.2.b. Allowing prior and current service providers to
19 provide information about the batterer to the provider;
20

21 7.2.c. Allowing the provider, for good cause, to provide
22 information about the batterer to relevant legal entities,
23 including courts, parole officers, probation officers, child
24 protective services, adult protective services, law enforcement,
25 licensed domestic violence programs, or other referral agencies;
26

27 7.2.d. Allowing the provider to report to the court, if the
28 participation was court ordered, and to the victim or alleged
29 victim, if she or he requests and provides a method of
30 notification, and to his or her advocate, any assault, failure to
31 comply with program requirements, failure to attend the program,
32 threat of harm by the batterer, reason for termination and
33 recommendations for changes in the court order; and
34

35 7.2.e. Allowing the provider to report to the victim or
36 alleged victim, or his or her advocate, without the participant's
37 authorization, all perceived threats of harm, the participant's
38 failure to attend and reason for termination.
39

40 7.3. Monitored parenting and exchange programs may disclose
41 to one parent or guardian, without the permission of the other
42 parent or guardian, any perceived threat of harm or violation of
43 the court order or violation of the monitored parenting and
44 exchange program rules by the other parent or guardian.

1 7.4. Monitored parenting and exchange programs may not
2 release information about the child without consent of the parent
3 with custodial responsibility or guardian.

4
5 7.5. In addition to the provisions set forth in this
6 section, the release of a victim's personally identifying
7 information is subject to the provisions of 42 U.S.C. §
8 13925(b)(2).

9
10 7.6. No consent or authorization for the transmission or
11 disclosure of confidential information is effective unless it is
12 signed by the program participant whose information is being
13 disclosed. Every person signing an authorization shall be given a
14 copy.

15
16 7.7. A victim of domestic violence, dating violence, sexual
17 assault, or stalking shall not be required to provide consent to
18 release his or her personally identifying information as a
19 condition of eligibility for the services, nor may any
20 personally-identifying information be shared in order to comply
21 with federal or state reporting, evaluation, or data collection
22 requirements: Provided, That nothing in this section prohibits a
23 program from reporting suspected abuse or neglect, as defined by
24 law, when the program is mandated by law to report suspected
25 abuse or neglect.

26
27 191-1-8. Americans with Disabilities Act Compliance.

28
29 All programs that own or lease buildings shall comply with
30 the American with Disabilities Act requirements or make
31 arrangements to accommodate individuals with special needs.

32
33 ~~5.7. Receivership of Program.~~

34
35 ~~The Board may place a family protection, perpetrator~~
36 ~~intervention program or shelter under receivership when the~~
37 ~~health, well being and/or safety of its clients are threatened.~~
38 ~~The Board shall oversee the operation of the program to preserve~~
39 ~~the services for clients. The Board shall have access to and may~~
40 ~~use all assets of the program. After placing a family~~
41 ~~protection, perpetrator intervention program or shelter into~~
42 ~~receivership and prior to the closing of a program, the Board~~
43 ~~shall send written notice of the intent to place a family~~
44 ~~protection program into receivership by certified mail to the~~

1 ~~president of the family protection, perpetrator intervention~~
 2 ~~program's or shelter's board of directors.~~

3
 4 ~~5.7.a. The Board shall provide for and hold a public~~
 5 ~~hearing in the municipality or county in which the program is~~
 6 ~~located prior to the closure of a program by a program into~~
 7 ~~receivership, subject to the requirements of section 5.6.d of~~
 8 ~~this rule.~~

9
 10 ~~5.7.b. The Board shall provide the governing body and/or~~
 11 ~~legal counsel of the program or shelter notice of hearing time,~~
 12 ~~date and location at least ten (10) days prior to the hearing~~
 13 ~~date. The Board shall also provide notice of the hearing to the~~
 14 ~~Secretary of State in compliance with W. Va. Code §§6-9A et seq.~~
 15 ~~The Board shall provide notice of the hearing through a local~~
 16 ~~newspaper's legal notice section at least ten (10) days prior to~~
 17 ~~the hearing date. The hearing will be held in accordance with W.~~
 18 ~~Va. Code §§29A-5 et seq.~~

19
 20 ~~5.7.c. The Board chair shall conduct the hearing, and s/he~~
 21 ~~shall have full authority to call recesses, to remove individuals~~
 22 ~~exhibiting inappropriate behavior from the hearing, and to call~~
 23 ~~for an executive session of the Board, if necessary, in~~
 24 ~~accordance with the provisions of W. Va. Code §§6-9A-1 et seq.~~
 25 ~~Four (4) members must be present to hear the violations and the~~
 26 ~~program's response.~~

27
 28 ~~§191-1-6. Certification of Monitored Parenting and Exchange~~
 29 ~~Programs.~~

30
 31 ~~6.1. The Board shall oversee a process for the certification~~
 32 ~~of all monitored parenting and exchange programs in the state.~~
 33 ~~The purpose of certification is to assure the safety and welfare~~
 34 ~~of the children, adults and program staff during supervised~~
 35 ~~contact. Once safety is assured, the welfare of the child(ren)~~
 36 ~~is the paramount consideration at all stages. Nothing in these~~
 37 ~~rules shall preclude a monitored parenting and exchange program~~
 38 ~~from offering both monitored parenting and exchange services and~~
 39 ~~supervised services.~~

40
 41 ~~6.2. Application for Certification~~

42
 43 ~~6.2.a. All monitored parenting and exchange programs that~~

1 ~~represent themselves as certified for monitored contact shall be~~
2 ~~certified by the Board.~~

3
4 ~~6.2.b. The Board will provide a standard application form~~
5 ~~for certification of monitored parenting and exchange programs~~
6 ~~upon request. An organization shall complete an application when~~
7 ~~it initially requests certification or when it wishes to reopen~~
8 ~~after closure. After initial certification, monitored parenting~~
9 ~~and exchange programs will be evaluated by the Board on an annual~~
10 ~~basis.~~

11
12 ~~6.2.c. The Board shall consider all applications submitted~~
13 ~~for certification of a monitored parenting and exchange program~~
14 ~~in light of the need for services, the ability of the applicant~~
15 ~~to successfully operate a program, the applicant's ability to~~
16 ~~obtain adequate funding for the delivery of services, and the~~
17 ~~applicant's interest and ability to provide quality services.~~

18
19 ~~6.2.d. If the Board finds that an application contains~~
20 ~~deficiencies, the application and a list of deficiencies will be~~
21 ~~returned to the applicant, and the applicant will have thirty~~
22 ~~(30) days to resubmit a revised application.~~

23
24 ~~6.2.e. The Board shall, on an annual basis, renew the~~
25 ~~certification of all monitored parenting and exchange programs~~
26 ~~that are in compliance with this rule and with Series 4 of the~~
27 ~~Board's rules. The Board shall distribute forms for~~
28 ~~certification renewal to certified monitored parenting and~~
29 ~~exchange programs no later than the fifteenth day of March each~~
30 ~~year. All certifications will be valid for one (1) year~~
31 ~~commencing on the first day of July and terminating on the~~
32 ~~thirtieth day of June of the next year. The Board shall grant or~~
33 ~~deny any certification application within forty five (45) days of~~
34 ~~receiving the application. Every certified monitored parenting~~
35 ~~and exchange programs shall conspicuously display the~~
36 ~~certification.~~

37
38 ~~6.2.f. The Board shall notify, by certified letter, any~~
39 ~~organization operating a program without certification as a~~
40 ~~monitored parenting and exchange program of its right to apply~~
41 ~~for certification.~~

42
43 ~~6.3. Evaluation for Certification~~
44

1 ~~6.3.a. The Board shall annually evaluate all certified~~
2 ~~monitored parenting and exchange programs operating in the state.~~
3 ~~The evaluation shall be conducted using the certification~~
4 ~~standards found in Series 4 of the Board's rule.~~

5
6 ~~6.3.b. The Board shall review each area of non-compliance~~
7 ~~and consider the relative risk it poses to the health, safety and~~
8 ~~well-being of individuals being served by the monitored parenting~~
9 ~~and exchange program and of staff employed by that program.~~

10
11 ~~6.3.c. The Board shall determine whether trained staff from~~
12 ~~a certified monitored parenting and exchange program, a member of~~
13 ~~the Board, or staff of the Board shall conduct the evaluation.~~

14
15 ~~6.4. Award of Certification.~~

16
17 ~~The Board shall award certification annually to any~~
18 ~~organization which has applied for certification and been~~
19 ~~approved by the Board as having complied with all established~~
20 ~~standards set forth in this rule and in Series 4 of the Board's~~
21 ~~rules. Compliance with the standards will be evaluated by peer~~
22 ~~reviewers, by Board members, by Board staff, or any combination~~
23 ~~thereof as determined by the Board.~~

24
25 ~~6.5. Waiver of Licensure. The Board may grant a waiver of~~
26 ~~certification if the Board finds it necessary for the good of~~
27 ~~participants who would be served by the monitored parenting and~~
28 ~~exchange program in question. The Board shall review all such~~
29 ~~waivers semi-annually.~~

30
31 ~~6.6. Provisional Certification.~~

32
33 ~~6.6.a. The Board may grant provisional certification if the~~
34 ~~Board finds it necessary for the good of participants who will be~~
35 ~~served by the monitored parenting and exchange program in~~
36 ~~question. All provisional certifications shall be reviewed semi-~~
37 ~~annually.~~

38
39 ~~6.6.b. Upon a finding by the Board that a monitored~~
40 ~~parenting and exchange program is not in compliance with Series 4~~
41 ~~of the Board's rules, the Board may issue a provisional~~
42 ~~certification and shall give the program written notice of~~
43 ~~deficiency that shall include, but not be limited to, the~~
44 ~~following:~~

1 ~~6.5.b.1. A statement of program deficiencies.~~

2
3 ~~6.5.b.2. A requirement to submit a plan of correction~~
4 ~~regarding the deficiencies.~~

5
6 ~~6.5.b.3. A timeline for the Board's review of the plan~~
7 ~~of correction.~~

8
9 ~~6.5.b.4. A requirement that compliance occur within a~~
10 ~~time period set by the Board.~~

11
12 ~~6.5.b.5. Verification of the issuance of provisional~~
13 ~~certification until compliance is achieved or until the Board~~
14 ~~takes action deemed necessary for the safety of participants.~~

15
16 ~~6.6. Revocation or Suspension of Certification.~~

17
18 ~~6.6.a. The Board may revoke or suspend certification of any~~
19 ~~monitored parenting and exchange program that violates the~~
20 ~~provisions of this rule or Series 4 of the Board's rules, subject~~
21 ~~to paragraph 3 of this subdivision regarding public hearings.~~
22 ~~Four (4) members of the Board must vote in the affirmative before~~
23 ~~certification may be revoked or suspended.~~

24
25 ~~6.6.a.1. The Board shall send written notice of the~~
26 ~~revocation or suspension by certified mail to the president of~~
27 ~~the monitored parenting and exchange program's governing board.~~
28 ~~The notice shall contain a statement of the alleged violations of~~
29 ~~the Board's rules.~~

30 -
31 ~~6.6.a.2. The Board shall permit the program's board of~~
32 ~~directors fifteen (15) days from date of receipt of the notice to~~
33 ~~respond in writing to the alleged violations. If there is no~~
34 ~~written response, the Board will proceed with the revocation or~~
35 ~~suspension of the monitored parenting and exchange program's~~
36 ~~certification.~~

37
38 ~~6.6.a.3. If the Board is provided with a response to the~~
39 ~~violations, a public hearing will be held in the municipality or~~
40 ~~county in which the program is located within thirty (30) days of~~
41 ~~receipt of the response.~~

42
43 ~~6.6.b. The Board shall provide for and hold a public~~
44 ~~hearing in the municipality or county in which the program is~~

191CSRI

1 ~~located prior to the closure of a program through the revocation~~
2 ~~or suspension of the certification.~~
3

4 ~~6.6.b.1. The Board shall provide notice of hearing time,~~
5 ~~date and location to the governing body or legal counsel of the~~
6 ~~program at least ten (10) days prior to the hearing date. The~~
7 ~~Board shall provide notice of the hearing to the Secretary of~~
8 ~~State in compliance with W. Va. Code §§6-9A et seq. The Board~~
9 ~~shall also give local public notice by advertisement in a local~~
10 ~~newspaper's legal notice section at least ten (10) days prior to~~
11 ~~the hearing date.~~
12

13 ~~6.6.b.2. The hearing shall be conducted by the Board~~
14 ~~chair, and he or she shall have full authority to call recesses,~~
15 ~~to remove persons exhibiting inappropriate behavior from the~~
16 ~~hearing, and to call for an executive session of the Board if~~
17 ~~necessary. Four (4) members shall be present to hear the~~
18 ~~violations and the program's response.~~
19