

**WEST VIRGINIA
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ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Family Protection Services Board TITLE NUMBER: 191

CITE AUTHORITY: WV Code 48-26-403

AMENDMENT TO AN EXISTING RULE: YES x NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Perpetrator Intervention Programs Licensure

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Judy King
Authorized Signature

TITLE 191
LEGISLATIVE RULE
191CSR3

FAMILY PROTECTION SERVICES BOARD

SERIES 3
PERPETRATOR BATTERER INTERVENTION AND PREVENTION PROGRAMS
LICENSURE STANDARDS

§191-3-1. General.

1.1. Scope -- This rule establishes general standards and procedures for licensed ~~the licensure of perpetrator batterer intervention and prevention~~ programs as specified in W. Va. Code ~~§§48-26-401 (a) and 48-26-404~~ §48-26-403 and the Code of State Rules, Title 191-Series 1. The West Virginia Code is available in public libraries and on the Legislature's web page at <http://www.legis.state.wv.us/>.

1.2. Authority -- W. Va. Code ~~§§48-26-401 and 48-26-404~~ §48-26-403.

1.3. Filing Date --

1.3. Effective Date --

§191-3-2. Definitions.

2.1. "Board" means the Family Protection Services Board.

~~2.1.~~ 2.2. "Educator/Facilitator" means an individual who meets the minimum requirements outlined in Section 3.3. of this rule and who directly facilitates regularly scheduled classes for perpetrator batterer of domestic violence.

~~2.2.~~ 2.3. "Power and Control" means the primary cause that gives rise to the occurrence of domestic violence and family violence. Factors such as alcohol, poverty, unemployment, stress, and substance abuse are conditions that contribute to the incidents of domestic violence and family violence but are not themselves the cause of domestic and family violence.

2.4. "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.

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

§191-3-3. Licensing Standards for Perpetrator Batterer Intervention and Prevention Programs.

3.1. Perpetrator Batterer intervention and prevention program requirements include the following:

3.1.a. A perpetrator batterer intervention and prevention program shall have a written statement of purpose specifying program orientation identifying the types of programming and the individuals eligible to receive services. The statement should identify the types of services provided and the individuals to be served. The program shall have written procedures for payment and payment amount. The statement of purpose shall be available to the public on upon request.

3.1.b. A perpetrator intervention program shall ensure that all purchase of client service agreements are in writing. Those agreements shall contain all terms and conditions required to define the individuals to be served, the services to be provided, the procedures for payment and the payment amount. The program shall have written policies regarding class fees and collection procedures.

3.1.c. The sponsoring agency of a A perpetrator batterer intervention and prevention program shall provide for appropriate class meeting space maintain copies of all leases into which it has entered. These leases shall state the location of the property involved, the monthly or annual rent, and the ownership of the property, the useable square footage and the term of the lease.

3.1.d. A perpetrator batterer intervention and prevention program shall have a written description of its referral process, admission policies, exit interview process, and follow-up procedures.

3.1.e. A perpetrator batterer intervention and prevention program shall employ or contract with staff to cover the following areas: class facilitation; administration and supervision of the program; program direction to provide overall development; coordination of personnel; volunteer activities; case supervision; direct services; record keeping; and community education activities. Volunteers may also be used for class facilitation.

3.1.f. A perpetrator batterer intervention and prevention program shall make available and display the address and telephone number of the Domestic Violence Services Complaint Toll Free Number at all locations.

3.2. ~~Board of Directors.~~ Program Oversight.

3.2.a. A perpetrator batterer intervention and prevention program shall be governed by a board of directors which shall be responsible for and have authority over the policies and activities of the program, and which is broadly representative of the community served.

3.2.b. Batterer intervention and prevention programs governed by community criminal justice boards shall provide proof of compliance with special conditions and assurances of Division of Justice and Community Services (DJCS) funding sources.

3.2.c. Non-profit agencies sponsoring batterer intervention and prevention programs shall have:

- 3.2.c.1 articles of incorporation;
- 3.2.c.2 501c(3) Non-profit status;
- 3.2.c.3 a board of directors; and
- 3.2.c.4 written by-laws

~~3.2.b.~~ 3.2.d. The board of directors shall adopt, and review on a bi-annual basis, written by-laws and policies that define the powers and duties of the governing body, its committees, the executive director(s), and advisory group, where one exists. Copies of the articles of incorporation (if applicable) and the by-

laws shall be maintained by the board of directors.

~~3.2.c.~~ 3.2.e. The board of directors is responsible for ensuring the program's continual compliance and conformity with terms and conditions of all funding sources.

~~3.2.c.1. Provisions of the program's charter;~~

~~3.2.c.2. All federal, state and local laws, rules and regulations governing the operation of the program; and~~

~~3.2.c.3. Terms of all leases, contracts, or other legal agreements to which the program is a party.~~

~~3.2.d.~~ 3.2.f. The board of directors ~~will require the program director shall designate an individual or individuals to coordinate and manage the affairs of the batterer intervention and prevention program effectively and~~ to submit a written programmatic and financial reports report at each board meeting.

~~3.2.d.1 Submit it a written programmatic report for all board meetings that outline the services provided and the financial transactions occurring since the last meeting. and financial report at each board meeting.~~

3.2.g. Every member of the board of directors shall disclose in writing any financial transactions with the program in which any member of the board or her or his immediate family is involved. ~~The board of directors must approve any contract or transaction of disclosure where financial interests of this nature have been made.~~

~~3.2.f. The board of directors shall designate an individual(s) to act as program director and shall delegate necessary authority to such individual(s) manage the affairs of the program effectively.~~

~~3.2.g.~~ 3.2.h. The board of directors shall meet at a minimum on a quarterly basis and shall keep written minutes of all meetings, including attendance and whether or not a quorum was present.

~~3.2.h.~~ 3.2.i. The board of directors shall maintain a current listing of its members, including the name, the position, and the term of membership (if applicable) for each member.

~~3.2.i. The board of directors shall establish internal operating procedures, including by laws and meeting dates.~~

3.2.j. 3.2.j. The board of directors shall ensure that the program is adequately funded and fiscally sound. To this end, the board of directors is responsible for the following:

~~3.2.j.1. Assessing the adequacy of operating funds for at least six months into the future, i.e., reserves, guarantee of loans or other funds and fees, and developing a fund-raising strategy when necessary;~~

~~3.2.j.2.~~ 3.2.j.1. Reviewing and approving the program's annual budget;

~~3.2.j.3.~~ 3.2.j.2. Providing for an annual audit of all accounts by an independent certified public accountant who is neither an employee of the program nor a member of the board of directors;

~~3.2.j.4.~~ 3.2.j.3. Monitoring disbursement of all funds on a quarterly basis to assure that they are made in accordance with the program's objectives as specified by the board of directors;and

~~3.2.j.5.~~ 3.2.j.4. Assuring that the program maintains liability insurance and bond for employees, volunteers, and members of the board of directors.

~~3.2.j.6. Providing, at its own expense, a financial bond for all individuals delegated the authority to sign checks or manage funds. The bond shall assure the full operation of the perpetrator intervention program for a period of thirty (30) days should those individuals misappropriate or mismanage the program's funds or assets or engage in any illegal act which results in the loss of funds or assets.~~

3.2.k. The batterer intervention and prevention program's board of directors shall adopt and monitor implementation of written personnel policies that shall, at a minimum:

~~3.2.k.1.~~ 3.2.k.1. Pertain to all paid and volunteer staff;

~~3.2.k.2. Include requirements for recruitment efforts, equal employment opportunity, selection procedures, orientation,~~

~~on-going staff development and training, and termination of employment;~~

~~3.2.k.3. List, in definitive terms, all benefits that are available to staff and volunteers, including specifics of any insurance program;~~

~~3.2.k.4. Specify eligibility for vacation, personal leave and adjusted work week, yearly carry over and accumulation, approval procedures, and payment upon termination;~~

~~3.2.k.5. 3.2.k.2. Specify actions that will be taken by the agency if an employee the batterer intervention and prevention program personnel fails to comply with employee, contractor or volunteer policies, including written notification of the nature of misconduct or poor performance, the discipline being taken, the effective date of the discipline, future consequences for reoccurrence, and appeal rights. The policy shall allow the employee batterer intervention and prevention program personnel the opportunity to respond to the charges of misconduct or poor performance before a disciplinary decision is made.~~

~~3.2.k.6. Specify grievance procedures for the employees, including grievable issues, steps of appeal, required time frames and who has the authority for resolution;~~

~~3.2.k.7. Delineate the lines of authority within the agency, and outline the authority of the supervisor(s) regarding personnel activities such as promotion, discipline, leave approval, performance evaluations, grievances, assignment of work and training;~~

~~3.2.k.8. 3.2.k.3. Include written job descriptions and position qualifications for each position within the batterer intervention and prevention program; and~~

~~3.2.k.9. Require that all staff, including administrative and supervisory staff, receive performance evaluations at least on an annual basis. The evaluations must be signed by both the employee and the supervisor;~~

~~3.2.k.10. 3.2.k.4. Set forth, in written form, rules of conduct for batterer intervention and prevention program personnel. which include such topics as appropriate attire, work hours, confidentiality, insubordination, misuse of authority or equipment,~~

~~absences without leave and falsification of records;~~

~~3.2.k.11. Require that individuals providing professional or therapeutic counseling, and/or professional social work have appropriate credentials and are licensed when applicable.~~

3.3. Staff Qualifications

3.3.a. ~~Educators/facilitators~~ Facilitators shall have a minimum of 30 hours of training approved by the Board, including, but not be limited to, the following:

3.3.a.1. The dynamics of domestic violence within the context of power and control;

3.3.a.2. The effects of domestic violence on victims and their children and the critical nature of victim contacts and safety planning;

3.3.a.3. The understanding that domestic violence is deeply rooted in historical attitudes toward women and ~~is~~ intergenerational other learned oppressive attitudes and behaviors.

3.3.a.4. ~~Lethality assessment for~~ The risks of homicide, suicide, further domestic violence or other violent aggressive behaviors and the access to or use of weapons.

3.3.a.5. Information on state and federal laws pertaining to domestic violence, including the policies affecting ~~treatment of~~ court-ordered program participants, orders of protection, child abuse, divorce and custody matters;

3.3.a.6. The role of the facilitator ~~within the group and~~ in the context of a coordinated community response to domestic violence;

3.3.a.7. ~~Teaching non-controlling alternatives to violent and controlling behaviors, and understanding and preventing collusion.~~ Educating batterers on alternatives to violence and promoting healthy relationships based on equality and respect.

3.3.a.8. Dynamics involved in interpersonal relationships and knowledge of human behavior and development.

3.3.a.9. Understanding and preventing collusion.

3.3.a.10. Group process and facilitation skills training.

3.3.b. ~~Educators/facilitators~~ Facilitators shall have at a minimum a high school diploma or ~~G.E.D~~ high school equivalency diploma.

3.3.c. ~~Educators/facilitators~~ Facilitators shall receive on an annual basis a minimum of ~~3~~ three (3) hours of continuing education or training approved by the Board. The training shall include, but not be limited to, the following:

3.3.c.1. Domestic violence and substance abuse.

3.3.c.2. Domestic violence and the law;

3.3.c.3. Other issues which pertain to domestic violence.

~~3.3.c.3.~~ 3.3.c.4. Cultural sensitivity Awareness and understanding of diversity and cultural differences;

3.3.c.5. Group process and facilitation skills training.

3.4. ~~Staff Evaluation~~ ~~A perpetrator intervention program's personnel policies shall require all staff, including administrative and supervisory staff, to receive performance evaluations on an annual basis. The evaluation shall be conducted by the program. The evaluation must be discussed with the staff person and become a part of the staff person's permanent personnel record. Perpetrator intervention program policies shall require the staff person to receive a written copy of the evaluation and to sign the evaluation to demonstrate agreement or disagreement with the results of the evaluation. Policies shall assure that any written response from the staff person is included in the permanent personnel file.~~ Quality Assurance - Programs shall have a formal procedure to evaluate, on an annual basis, all persons providing services for the batterer intervention and prevention program.

3.5. Intake - Criteria concerning a ~~perpetrator's~~ batterer's appropriateness for the program.

3.5.a. A perpetrator batterer shall be admitted to a perpetrator batterer intervention and prevention program if ordered by a court or voluntarily-enrolled referred by a government agency in to the program, and is assessed by the program to be eligible for participation in the program. Each program shall have the discretion to accept self-referrals. An assessment shall be performed to:

3.5.a.1. Identify individuals who would benefit from concurrent mental health or substance abuse treatment programs.

3.5.a.2. Screen out those individuals from the program who have substance abuse problems or other impairments which make them unable to participate in the group intervention even with concurrent or preliminary treatment of those problems;

3.5.a.3. Screen out those individuals from the program who may be dangerous or have severe mental illness and would not benefit from the program.

3.5.b. Upon admittance to a perpetrator batterer intervention and prevention program, the program educator/facilitator facilitator shall complete a perpetrator batterer intake form. The information shall be collected from the perpetrator batterer and from independent sources that may include ~~such as, but not limited to~~ police reports and court records.

3.5.c. A perpetrator batterer intervention and prevention program shall have a contract outlining the responsibilities of the perpetrator batterer and the educator/facilitator facilitator. The terms of the contract will be agreed to and signed by the perpetrator batterer and the authorized program representative.

3.5.d. The contract shall require completion of at least 32 sessions.

3.6. Contact with Victims

3.6.a. Contact with victims shall come from a licensed family protection domestic violence program and all information for contacting the victim shall remain with a licensed family protection domestic violence program, unless expressly provided otherwise by written agreement between the licensed perpetrator batterer intervention and prevention program and the licensed family protection domestic violence program as defined in the

memorandum of understanding between the batterer intervention and prevention program and the licensed domestic violence program.

~~3.6.b. Educator/Facilitators of a licensed perpetrator intervention program will consult with local licensed family protection programs to determine the appropriateness and logistics of contacting the victim and/or partner of the perpetrator. Victims and/or partners will be contacted by either the educator/facilitator, a designated perpetrator intervention program staff member, or staff from a local licensed family protection program. Victims and/or partners should be contacted at a time and in a fashion that gives primary emphasis to their safety.~~

~~3.6.c.~~ 3.6.b. In the event the contact of the victim and/or partner is done by the perpetrator batterer intervention and prevention program staff personnel, they shall provide written information to the family protection licensed domestic violence program, including the date and contact information.

~~3.6.d.~~ 3.6.c. Victim and/or partner contact procedures must may also include informing the perpetrator's batterer's victim and/or partner of class commencement and termination dates, and a duty to warn the victim and/or partner of any imminent danger from the perpetrator batterer. Victims and/or partners ~~will~~ may also receive written materials about the perpetrator's batterer's class, detailing the limitations of the class's effectiveness, the fact that the class is not intended to salvage relationships, and the necessity for victims to maintain a safety plan.

3.7. -Client Participant Records and Service Program Plans

3.7.a. A perpetrator batterer intervention and prevention program shall maintain a written record for each individual who receives services from the program. The service plan or contract shall be developed by program staff with the active participation of the client participant and must be completed prior to the provision of services.

3.7.b. Individual client participant records shall include service data from the time of initial contact until the time services are the program is concluded.

3.7.c. Individual client participant case records maintained by a perpetrator batterer intervention and prevention program shall contain an application form, which includes identifying data,

eligibility factors pursuant to section 3.5. of this rule, rights and responsibilities, ~~participant/client~~ participant signature and authorized staff signature.

3.7.d. A perpetrator batterer intervention and prevention program shall maintain, if possible, a copy of protective orders of protection issued against a perpetrator batterer enrolled in the perpetrator batterer intervention and prevention program.

3.8. Confidentiality.

Every perpetrator batterer intervention and prevention program shall have a written policy regarding disclosure of information to the individual or individuals named in any protective orders of protection which ordered the perpetrator batterer to the program. There shall be a written agreement between the perpetrator batterer and the program providing for disclosure of information to the victim and a waiver of confidentiality. The disclosure agreement shall be signed by the perpetrator batterer.

3.8.a. Nothing in these rules prohibits a batterer intervention and prevention program from reporting suspected abuse or neglect, as defined by law, when the program is mandated by law to report suspected abuse or neglect. A batterer intervention and prevention program shall not be responsible to maintain confidentiality about the batterer in any proceeding brought under W. Va. Code sections four and five, article six, chapter nine or article six, chapter forty-nine or as mandated by article six-a, chapter forty-nine and article six, chapter nine.

3.8.b. Batterer intervention and prevention program participants shall authorize the release of information by signing the following releases:

3.8.b.1. Allowing the provider to inform the victim or alleged victim and the victim's advocates that the batterer is participating in a batterer intervention and prevention program with the provider and to provide information to the victim or alleged victim and her or his advocates, if necessary, for the victim's or alleged victim's safety;

3.8.b.2. Allowing prior and current service providers to provide information about the batterer to the provider;

3.8.b.3. Allowing the provider, for good cause, to provide information about the batterer to relevant legal entities,

including courts, parole officers, probation officers, child protective services, adult protective services, law enforcement, licensed domestic violence programs, or other referral agencies;

3.8.b.4. Allowing the provider to report to the court, if the participation was court ordered, and to the victim or alleged victim, if she or he requests and provides a method of notification, and to his or her advocate, any assault, failure to comply with program requirements, failure to attend the program, threat of harm by the batterer, reason for termination and recommendations for changes in the court order; and

3.8.b.5. Allowing the provider to report to the victim or alleged victim, or his or her advocate, without the participant's authorization, all perceived threats of harm, the participant's failure to attend and reason for termination.

3.8.b.6. The release of a victim's personally identifying information is subject to the provisions of 42 U.S.C. § 13925(b)(2).

3.9. Reports

The perpetrator batterer intervention and prevention program shall provide a monthly report to a licensed family protection domestic violence program or programs. This report shall contain the perpetrator's batterer's attendance record, and compliance with program rules, and class completion or termination. If the perpetrator's batterer's participation is court ordered, this report shall also be forwarded to all appropriate supervising entities. the perpetrator's probation officer, parole officer, the courts and/or state and local law enforcement agencies. In the event that a referral is deemed ineligible for the batterer intervention and prevention program, the referral source will be notified in writing of the reason for non-acceptance.

3.10. Perpetrator Batterer Intervention and Prevention Program Classes.

3.10.a. A perpetrator batterer intervention and prevention program class shall last for a period of at least thirty-two in-person sessions with each session including at least ninety minutes of instruction time weeks and will shall include, but not be limited to, the following topics:

3.10.a.1. A model that depicts an overall system of physical, ~~and sexual, and emotional~~ abuse where the perpetrator batterer uses methods and tactics ~~of~~ to maintain power and control over a victim.

3.10.a.2. The nature and effects of domestic violence;

3.10.a.3. The work that is necessary to bring about changes in the attitudes and beliefs that promote domestic and family violence.

3.10.a.4. The necessity for the maintenance of non-abusive behavior which includes learning non-violent conflict resolution, non-aggressive communication, and maintaining positive, healthy partnerships;

3.10.a.5. The importance of community services which allows perpetrators batterers to give something of themselves back to the community and contribute to changing the climate that condones domestic and family violence;

3.10.a.6. Information about ~~state and federal law and practice regarding domestic violence and~~ legal/social consequences for perpetrators of domestic violence.

~~3.10.b. After the completion of a perpetrator intervention program, a report shall be made to the referral source to be used in determining whether or not to release the perpetrator from the intervention class. This process may be repeated as necessary.~~

~~3.10.c.~~ 3.10.b. Perpetrator The participant shall pay a fee for the perpetrator batterer intervention and prevention program classes, unless waived by the program. The fee scale shall be determined by the perpetrator batterer intervention and prevention program.

~~3.10.d.~~ 3.10.c. ~~Educator/fFacilitators~~ Facilitators of perpetrator batterer intervention and prevention programs shall utilize a group education format with a staff ratio at a minimum of one (1) ~~educator/facilitator~~ facilitator per twelve (12) perpetrators batterers.

3.11. Interagency Cooperation.

A perpetrator batterer intervention and prevention program shall initiate a written memorandum of understanding with a licensed family protection domestic violence program ~~on an annual basis~~. The memorandum of understanding shall be agreed upon and signed by both parties and a copy shall be sent to the Board. The memorandum of understanding shall include, but not be limited to the following:

3.11.a. Identification of liaison persons involved in the meeting to develop the memorandum of understanding;

3.11.b. Description of the formal process for exchanging information between agencies including safeguards for protecting victim safety and methods for victim contact;

3.11.c. Description of the perpetrator batterer intervention and prevention program's ~~formal~~ process of ~~sending~~ submitting monthly reports to the licensed family protection domestic violence program;

3.11.d. Description of coordination, if any, of ~~service~~ program plans;

3.11.e. Description of the process and timetables for the annual perpetrator batterer intervention and prevention program evaluation, ~~required under subsection 12 of this rule, to include: who will be involved, where will it be held, who will coordinate the evaluation, who will write the evaluation report and who will sign the evaluation report.;~~

3.11.f. Procedures for amending and or evaluating the memorandum of understanding annually with procedures for documentation of the date of this review.

3.12. Perpetrator Batterer's Intervention and Prevention Program Evaluation Annual Data.

By ~~October 31~~ September 30 of each year, a perpetrator batterer intervention and prevention program shall complete and submit data to the Board an annual evaluation, to include but not be limited to the following data for the most recent fiscal year.; ~~The evaluation data will include but not be limited to the following.~~

3.12.a. Attendance records of ~~perpetrator(s)~~ batterer(s) including reason(s) for repeated absences and average class attendance;

3.12.b. Number of individuals ~~served~~ enrolled, number court ordered and number completing the program;

3.12.c. Number of and reason for termination without class completion;

3.12.d. Demographic information;

3.12.e. Types of referral sources;

3.12.f. Counties served and location of class sites;

~~3.12.c.~~ 3.12.g. Number of ~~perpetrator~~ batterer intervention and prevention program classes provided.

3.12.h. Number of months in operation

3.12.i. Contact information for all current facilitators.

3.13. Americans with Disabilities Act Compliance.

All Batterer's Intervention and Prevention Programs licensed pursuant to this rule which own or lease buildings shall be in compliance with Title III of the Americans with Disabilities Act requirements or make arrangements to accommodate individuals with special needs.