



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)**

AGENCY **Human Services**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **78-02**
RULE NAME **Child Placing Agencies Licensing**

CITE AUTHORITY **49-2-121**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Wednesday, July 26, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
**Linda Watts, Acting Commissioner
Bureau of Children and Families
350 Capitol Street, Room 730
Charleston, WV 25301**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Melanie A Pagliaro -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 78-02



Rule Id: 16543



Document: 49510



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 2)**

AGENCY **Human Services**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **78-02**
RULE NAME **Child Placing Agencies Licensing**

CITE AUTHORITY **49-2-121**

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

This rule required by WV State Code Chapter 49, Article 2, provides authority to the Secretary of the Department of Health and Human Resources to license child placing agencies, which provide foster homes for children. This rule is being revised to add a purpose to the rule; add several definitions and to remove outdated definitions; clarify several individual rules which were vague; clarify who can make a complaint against an agency; forbids agencies for discrimination against a person for filing a complaint; specifies when and how often a Protective Services Check must be completed on an employee and when a potential employee cannot be hired due to the results; added standards for foster parent eligibility and foster home criteria from the recommendations of the National Association of Regulatory Administration's (NARA) model foster home standards; strengthen language regarding foster home compliance and the oversight, monitoring and tracking of the compliance; clarified transitional living services.

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Human Services**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **78-02**
RULE NAME **Child Placing Agencies Licensing**

CITE AUTHORITY **49-2-121**

PRIMARY CONTACT

Linda Watts
350 Capitol Street Room 730

Charleston, WV 25301

SECONDARY CONTACT

Melanie A. Pagliaro, OCS
One Davis Square
Suite 100, East
Charleston, WV 25301

Melanie A Pagliaro -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Human Services**

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RULE NAME **Child Placing Agencies Licensing**

CITE AUTHORITY **49-2-121**

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

NA

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Human Services**
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CITE AUTHORITY **49-2-121**

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0.00	0.00	0.00
PERSONAL SERVICES			
CURRENT EXPENSES			
REPAIRS AND ALTERATIONS			
ASSETS			
OTHER			
ESTIMATED TOTAL REVENUES	0.00	0.00	0.00

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY **Human Services**
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RULE NAME **Child Placing Agencies Licensing**

CITE AUTHORITY **49-2-121**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

NA

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY **Human Services**
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RULE NAME **Child Placing Agencies Licensing**

CITE AUTHORITY **49-2-121**

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.

NA

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Human Services**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **78-02**
RULE NAME **Child Placing Agencies Licensing**

CITE AUTHORITY **49-2-121**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

This rule required by WV State Code Chapter 49, Article 2, provides authority to the Secretary of the Department of Health and Human Resources to license child placing agencies, which provide foster homes for children. This rule is being revised to add a purpose to the rule; add several definitions and to remove outdated definitions; clarify several individual rules which were vague; clarify who can make a complaint against an agency; forbids agencies for discrimination against a person for filing a complaint; specifies when and how often a Protective Services Check must be completed on an employee and when a potential employee cannot be hired due to the results; added standards for foster parent eligibility and foster home criteria from the recommendations of the National Association of Regulatory Administration's (NARA) model foster home standards; strengthen language regarding foster home compliance and the oversight, monitoring and tracking of the compliance; clarified transitional living services.

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Title-Series: 78-02



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Document: 49510

TITLE 78
LEGISLATIVE RULE
DIVISION OF HUMAN SERVICES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 2
CHILD PLACING AGENCIES LICENSURE

§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 Chapter 49, Article 2 (Part 1), and related federal and state codes. ~~The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.~~

1.2. Authority. -- W. Va. Code §49-2-121

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

1.6. Purpose. -- These standards are the basis for the licensing and approval of child placing agencies in West Virginia. Licenses of approval are issued if the standards and applicable rules and regulations are met. The purpose is to protect the health, safety and well-being of children receiving care in foster care and to regulate the provision of out of home behavioral health treatment for children with behavioral, emotional and/or developmental challenges, placed in foster home settings, or transitional living settings, through the formulation, application and enforcement of minimum licensing requirements. Nothing in these standards are intended to interfere with any requirements relating to funding streams.

§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 Absent from Supervision. -- When a foster care youth, without consent, is not is not under the supervision of the caregiver and the youth's location cannot be determined.

3.2. Adoption. -- A legal process that transfers all rights and obligations from the biological and/or legal parent(s) to new parent(s).

3.3. Adoption Assistance. -- Monthly subsidy payments to help adoptive parents raise children with

special needs, which can be state and federally funded. "Adoption Assistance" can also refer to any help given to adoptive parents.

3.4. Alternate Caregiver. -- The supervision or caring for a child or children through a person, known to the family and child placing agency. The care is normally provided as needed by a non-certified or non-licensed individual.

3.5. Applicant. -- An individual(s) who has submitted an application and is seeking certification from a licensing agency as a family foster home.

~~3.1~~ 3.6. 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.~~

3.7. Babysitting. -- The occasional, short-term, temporary act of caring for a child or children. Babysitting should not occur overnight. When determining an appropriate person to provide "babysitting", reasonable and prudent parent standards shall be utilized.

3.8. Birth Parent Counseling. -- Counseling that is provided by a qualified person to a biological and/or legal parent prior to the parent making a decision regarding whether to relinquish a child for adoption. It also includes counseling throughout the adoption process and follow-up.

~~3.3.~~ 3.9. Case Record. -- A comprehensive collection of information about a child in the care of a child placing agency.

3.10. Certified Child Care. -- The supervision or caring for a child or children through a person or facility that is licensed to provide nonresidential child care. The care is normally provided on a planned, continual basis for intervals of short periods of time. Normally used when a foster parent is employed or attending school and is in need of child care during those times.

~~3.4.~~ 3.11. Certificate of Approval License. A written certificate issued by the Secretary authorizing a person, 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. The approval, verification or certification of a home and applicant to provide family foster care, by a licensed child placing agency

~~3.5.~~ 3.12. Child. -- A person less than eighteen (18) years of age.

~~3.6.~~ 3.13. Child Abuse and Neglect. -- Physical injury, mental or emotional injury, sexual abuse, sexual exploitation, the sale or the 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.~~ 3.14. 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.~~ 3.15. Child's Case Plan. -- A comprehensive document prepared by the Department pursuant to the requirements of W. Va. State Code §49-4-604 following an adjudication by the court that the child is

an abused and/or neglected child, that directs the provision of all casework services including the services provided to the child and the provision of a permanent placement for the child.

~~3.9.~~ 3.16. Child-specific training. -- Training provided to respond to the specialized needs of a child.

3.17. CIB/NCIC -- Criminal Information Background/National Crime Information Center are entities that provide a history of a person's state and federal criminal activity.

3.18. Closed Adoption -- An adoptive placement in which the adoptive parent(s) and the birth parent(s) do not share identifying information or communicate with each other before or after the finalization of the adoption.

3.19. Commercial Sex Act -- The giving or receiving of anything of value (money, drugs, shelter, food, clothing, etc.) to any person in exchange for a sex act.

~~3.10.~~ ~~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.~~

3.20. Community Standards -- Local norms bounding acceptable conduct. For housing, the term means acceptable building standards based on the neighborhood and similar homes.

3.21. Corporal Punishment -- Any form of physical discipline in which a child is spanked, paddled or hit on any part of the body with a hand or instrument.

~~3.11.~~3.22. ~~Criminal Identification Bureau Record (CIB).~~ -- ~~A fingerprinting process that identifies a person who has been arrested or convicted of criminal behavior.~~ Criminal History Background Check -- A review of information pursuant to the provisions of the West Virginia Clearance for Access: Registry and Employment Screening Act (WV CARES), W. Va. Code §16-49-1 et seq., and W. Va. Code R. §§69-10-1, et seq., and an examination of protective service records to determine eligibility for employment or participation under this rule.

~~3.12.~~ 3.23. Crisis Intervention Skills and Techniques. -- Methods used to de-escalate situations that could result in harm to persons or property.

~~3.13.~~3.24. Crisis Support. -- The use of crisis intervention skills and techniques.

~~3.14.~~3.25. Department. -- The West Virginia Department of Health and Human Resources.

~~3.15.~~ 3.26. Discharge. -- The termination of a child's affiliation with an agency.

~~3.16.~~ 3.27. Discipline. -- A system of rules governing conduct that usually prescribes consequences for the violation of rules.

~~3.17.~~ 3.28. Disruption. -- An event that results in the decision that an adoptive or foster care placement will not continue.

3.29. Family Foster Care -- Continuous 24 -hour care and support services provided for a child in a family foster/adoptive home.

~~3.18.~~ 3.30. Foster Family Home. Foster/Adoptive Home -- A private residence used for the residential care of five (5) or ~~less~~ fewer children who are in foster care ~~unrelated by blood or adoption to any adult member of the household.~~ The home shall not have more than a total of six (6) children in the home at the same time.

3.31. Foster/Adoptive Parent -- An individual who provides family foster care with certification from the licensing authority.

3.32. Functional Literacy -- The ability to read and write at the level necessary to participate effectively in society.

~~3.19.~~ 3.33. 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.

~~3.20.~~ 3.34. Guardian. -- A person or persons, the Department, or the Division of Juvenile Services, who has legal custody of a child, as a result of any contract, agreement, or legal proceedings.

3.35. Guardian ad Litem. -- (GAL) The Attorney appointed to represent the best interest of the child in legal proceeding until permanency is achieved.

~~3.21.~~ 3.36. Governing Board. -- The group of persons that has the administrative control and legal authority to set policy and oversee operations of an agency.

3.37. Hague Agreement. -- An international agreement to safeguard inter-country adoptions. Which establishes international standards of practices for inter-country adoptions.

3.38. Household Member. -- Any relative or non-relative who regularly lives, shares common areas, and sleeps in a home. An individual who is living, sharing common areas, and sleeping in a home temporarily for more than two consecutive weeks is considered a household member.

~~3.22.~~ 3.39. 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.

~~3.23.~~ 3.40. Institutional Investigative Unit. -- A unit of the Department authorized by the Secretary to investigate complaints of child abuse or neglect in an agency.

~~3.24.~~ 3.41. Intake Service/Treatment Plan. -- A plan developed when the child initially enters placement to ensure that the child receives appropriate care while in placement. If the child is in the Department's custody, and if a Safety Plan or a Child's Case Plan exists, they must be incorporated in the Intake Service/treatment Plan.

3.42. Inter-Country Adoption. -- A type of adoption in which an individual or couple becomes the legal and permanent parent(s) of a child who is a national of a different country. In general, prospective adoptive parents must meet the legal adoption requirements of their country of residence and those of the country whose nationality the child holds.

3.43. Interstate Compact for the Placement of Children (ICPC). -- An agreement that has been enacted into law by all 50 states in the United States and the District of Columbia, which controls the lawful movement of all children from one state to another for the purpose of placement.

3.44. Labor Trafficking. -- The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of an act of labor services, where such an act is induced by force, fraud, or coercion.

3.45. Legal Guardianship. -- A legal condition that provides custodial parents to a child without the full rights and responsibilities of legal parents. In some cases parental rights may be retained by original parents.

3.46. License. -- A written certificate issued by the Secretary authorizing a person, 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.

3.47. Licensing Authority. -- The governmental body responsible for carrying out licensing and regulatory functions, including monitoring compliance with applicable state laws and rules.

~~3.25.~~ 3.48. Life Skills. -- Tasks, abilities, or knowledge required to perform the activities of daily living.

~~3.26.~~ ~~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.~~

~~3.27.~~ ~~Multi-Disciplinary Treatment Team.~~ -- ~~A treatment team that includes the child's custodial parent or guardian, other immediate family members, the attorney representing the parent of the child, the child if he or she is over the age of twelve (12) or the child's participation is considered appropriate, the guardian ad litem, the prosecuting attorney, and any other person who may contribute to the team's efforts to assist the family.~~

~~3.26.~~ 3.49. Multidisciplinary Treatment Teams (MDTs). -- A team designed to assess, plan, and implement a comprehensive, individualized service/treatment plan for a child who is involved in court proceedings either because of child abuse and neglect, status offense, or delinquency proceedings. The membership of the team should include the child or family's case manager in the Department of Health and Human Resources, the adult respondent(s), the child's parent or parents, guardians, any co-competitors, custodial relatives of the child, foster or pre-adoptive parents, any attorney representing an adult respondent or other member of the treatment team, the child's counsel or the guardian ad litem, the prosecuting attorney or his or her designee, a member of a child advocacy center when the child has been processed through the child advocacy center, court-appointed special advocate, an appropriate school official, and any other person or agency representative, who may assist in providing recommendations for the particular needs of the child and family, including the child placement agency worker, and domestic violence service providers. The child may participate in the multidisciplinary treatment team meetings if the child's participation is deemed appropriate by the Multidisciplinary Treatment Team. If the case is a Youth Service Case, the youth must be a participant.

3.50. Normalcy -- The right for all youth in out of home care to be provided with the opportunity for normal growth and development, which includes age-appropriate activities, recreation and life skills.

~~3.28.~~ 3.51. 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.

3.52. Open Adoption -- A form of adoption in which the biological and adoptive families have access

to varying degrees of each other's personal information and have an option of contact. In Open Adoption, the adoptive parents hold all the rights as the legal parents, yet the individuals of the biological and adoptive families may exercise the option to open the contact in varying forms: from just sending mail and/or photos, to face-to-face visits between birth and adoptive families.

~~3.29.~~3.53. 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.

~~3.30.~~3.54. 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.

~~3.31.~~3.55. 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.

~~3.32.~~3.56. Plan of Correction. -- A written agreement between the Department and an agency, approved prior to implementation, that outlines the steps an agency shall take to correct deficiencies identified by the Department through an inspection or the investigation of a complaint.

~~3.33.~~3.57. Policy. -- A statement of the principles that guide and govern the activities, procedures and operations of a program.

~~3.34.~~3.58. Procedures. -- The methods by which a policy is carried out.

~~3.35.~~3.59. Program. -- A system of services provided to those persons who use the agency.

3.60. Protective Services Check form. -- A document signed by a prospective employee or prospective foster/adoptive parents granting permission to conduct a search of Department records related to his or her involvement in child abuse or neglect allegations, or other investigations documented by the Department.

~~3.36.~~3.61. Psychotropic Medication. -- Drugs that affect the mind, mood, behavior, or other mental processes.

3.62. Reasonable and Prudent Parent Standard. -- The standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests. The act of taking "reasonable steps" to determine the appropriateness of an activity in consideration of the child's age, maturity, and developmental level, by utilizing information concerning the child in foster care, the type of activity, others involved in the activity, the geographic area of the activity, and risks and safety issues that may be involved in the activity.

3.63. Relative. -- An individual who is related by blood, marriage or adoption or who has a close family-like relationship to another individual. For American Indian and Alaska Native children, "relative" could also include a tribally defined extended family relationship.

~~3.37.~~3.64. Respite Care. -- Alternative short term care, usually overnight, of a child or children by a certified respite provider to give the primary caregiver a temporary break.

~~3.38.~~3.65. Restraint. -- Restriction of a child's freedom of movement as a means of behavior control.

~~3.39.~~3.66. Rules. -- A set of requirements issued by the Secretary to regulate child placing agencies.

3.67. Runaway. -- Defined as youth who leave their home or placement without caregiver/parental permission, for a period of 24 hours or longer. It also includes youth who leave their home or placement without caregiver/parental consent, but are returned to the home or placement by another entity within a 24 hour period and who had the intent of not returning to the home or placement.

~~3.40.~~ 3.68. Secretary. -- The Secretary of the Department of Health and Human Resources or his or her designee.

3.69. Semi-Open Adoption -- A form of adoption that is intentionally designed to be a combination of a more traditional closed adoption and a more progressive open adoption, with the emphasis being on the "privacy" of all parties, rather than on "confidentially." Direct communication after the adoption is more limited, with all communication taking place through a third party, which is usually an adoption agency, an adoption attorney or a designated intermediary.

~~3.41.~~ 3.70. Service/Treatment 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, incorporating any Child's Case Plan or Safety Plan developed through the MDT process.

3.71. Sex-Trafficking. -- The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, where such an act is induced by force, fraud, or coercion. Children can be commercially sexually exploited through prostitution, pornography, and/or erotic entertainment. If a person is under the age of eighteen (18), there is no requirement to prove that force, fraud or coercion was used to secure the victims actions.

3.72. Sibling. -- Brothers and sisters by birth or adoption, stepbrothers, stepsisters, half-brothers and half-sisters or any other child who the foster child considers a sibling.

~~3.42. 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 his or her involvement in child abuse or neglect allegations, or other investigations documented by the Department.

~~3.43.~~ 3.73. Statement of Criminal Record. -- A signed declaration by a prospective employee or prospective foster or adoptive parent of his or her arrests or convictions. Self-disclosure Application and Consent Form A signed declaration of criminal convictions, indictments, and court ordered supervision, and authorization to allow a criminal history background check..

3.74. 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.

~~3.45.~~ 3.75. Transitional Living Scattered Site Apartments-Setting. -- Placement arrangements for children or young adults in Transitional Living in apartments that are single-unit dwellings located throughout a community whether located in a stand-alone structure, house or apartment building.

~~3.47.~~ 3.76. Universal Precautions. -- A collection of medically related behaviors, procedures, and protocols designed to minimize the risk of disease transmission and contamination.

~~3.48.~~ 3.77. 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.

~~3.49.~~ 3.78. Waiver. -- A written declaration by the Secretary that a certain requirement may be treated as inapplicable in a particular circumstance.

~~3.50.~~ 3.79. 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 or operating a Child Placing Agency 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 is valid for up to two (2) years from the date of issuance, unless revoked or modified to provisional status.

4.1.c. A license is ~~valid only for the agency named in the application and is not~~ transferable by the agency.

4.1.d. ~~When the ownership of an agency changes, the new owner shall~~ The Transferee has thirty days to apply for a license and shall not operate until a provisional license is issued reflecting name change.

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

4.2. Application Procedures for a License.

4.2.a. To apply for ~~a~~ an initial 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;

4.2.a.4. The agency's description of the expectation for the biological families involvement in supporting the health and welfare of their children;

4.2.a.5. 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.6. 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.7. Proof of liability and fire insurance;

4.2.a.8. A copy of the agency's administrative manual;

4.2.a.9. The packet of forms that will be used to compile complete case records for children, foster or adoptive parents, and employees of the agency;

4.2.a.10. The orientation training curriculum for ~~foster and adoptive parents~~ Foster/Adoptive Parents;

4.2.a.11. The agency's employment policies, including detailed job descriptions and the hiring plan;

4.2.a.12. A plan for the training, supervision, and evaluation of employees of the agency;

4.2.a.13. Information on current agency employees; and

4.2.a.14. The fee or reimbursement schedule and procedures for payment of fees or reimbursements to ~~foster and adoptive parents~~ Foster/Adoptive Parents.

4.2.b. The agency is 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 them out effectively in the best interest of the children to be served;

4.2.b.2. Complete background information on the applicant and the principal owners, including a financial statement and character references;

4.2.b.3. A ~~criminal investigation bureau report~~ fitness determination of eligibility from the WV CARES unit for each applicant, owner and employee of the agency; and

4.2.b.4. A tuberculosis risk assessment for direct service employees prior to initial assignment.

4.3. Types of Licenses.

4.3.a. Following application review, on-site inspection and an approved plan of correction, if necessary, the Secretary shall issue a license in one of three categories, if there is compliance with this rule.

~~4.3.b.~~ 4.3.a.1. An initial license. An initial license shall be issued to agencies establishing a new service found to be in compliance with regard to policy, procedure, organization and record keeping rules. It expires not more than six (6) months from date of issuance and may not be re-issued.

~~4.3.c.~~ 4.3.a.2. A provisional license. A provisional license shall be issued when an agency ~~seeks a renewal license and~~ is not in compliance with this rule, but does not pose a significant risk to the rights, well-being, health and safety of a child. It expires not more than six (6) months from date of issuance and may not be ~~consecutively~~ re-issued ~~unless the provisional recommendation is that of the State Fire Marshal.~~ When an agency believes that they are in substantial compliance with this rule, they may apply to revert to a regular license. However, under no circumstance may an agency apply to revert back to a regular license less than sixty day prior to the expiration of a provisional license.

~~4.3.d.~~ 4.3.a.3. A regular license. A regular license shall be issued for a specified time period, up to two years, when an agency is in compliance with this rule, unless revoked or modified to provisional status.

4.4. ~~Amendment of a License.~~ Any of the licenses above can be amended under the following conditions: program changes, implementing a new services, address change, change in ownership.

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

4.5. ~~Renewal of a License.~~ 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 any additional information requested ~~to show continuing compliance with the provisions of W. Va. Code §49-2B-1 et seq. and this rule.~~

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 §49-2-117 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 its 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.

~~4.7. Transitioning Adults.~~

~~An agency may serve children, including transitioning adults, as defined in W. Va. §Code 49-1-202~~

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

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 by the Secretary during an inspection.

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

5.2. Investigation of Complaints.

5.2.a. Any person may file a complaint with the Secretary alleging violation of applicable laws or rules by an organization. A complaint shall state the nature of the complaint and the organization by name.

5.2.b. A resident or foster/adoptive parent or employee shall not be discriminated against on the basis of the filing of a complaint with the secretary

~~5.2.b.~~5.2.c. An agency shall limit internal assessment of an incident to ensuring the safety of the children in placement without compromising the Department's subsequent investigation.

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

~~5.2.c.~~5.2.e. For any complaint against an employee alleging sexual abuse or serious physical injury to a child in placement by the 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.~~5.2.f. For any complaint against a ~~foster or adoptive parent~~ Foster/Adoptive Parent alleging sexual abuse or physical injury to a child in placement by the ~~foster or adoptive parent~~ Foster/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~~ Foster/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)~~ ten (10) days of the date of receipt of the written summary of the investigation.

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 a different date for implementation.

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

5.4. Waivers and Variances.

5.4.a. An agency shall comply with all relevant requirements ~~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,~~ within this rule unless a written waiver or variance for a specific requirement has been granted by the Secretary, through a written agreement. An agency may not obtain a waiver of the requirements of this rule on the basis of the inability to achieve compliance with the rule.

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; and

5.4.b.3. The duration of the waiver or variance.

5.4.c. A waiver or variance of a specific provision of this rule may be granted by the Secretary only if the following criteria are met:

5.4.c.1. The agency has documented and demonstrated that the provision of the rule is inapplicable in a particular circumstance, or that the agency complies with the intent of the provision in the rule in a manner not permitted by the rule;

5.4.c.2. The health, safety, and well-being of a child is not endangered; and

5.4.c.3. The waiver or variance agreement contains provisions for a regular review of the waiver or variance.

5.4.d. The waiver or variance agreement must have the terms under which it was granted documented.

~~5.4.d.~~ 5.4.e. The waiver or variance agreement is subject to immediate cancellation if an agency fails to comply with the stated terms of this rule.

§78-2-6. Governance

6.1. Administrative Manual.

6.1.a. An agency's policies and a 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's policies and procedures shall require compliance with this rule.

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

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

~~6.1.e.~~ 6.1.f. An agency shall allow employees 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 the 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 retain its charter, bylaws, partnership agreement, articles of association or incorporation or other documentation at its principal place of business available for inspection, including

complete information about the owners, and a list of the names, addresses, phone numbers, and terms of office for the officers and governing board.

6.3. Governing Board.

6.3.a. An agency shall establish 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; and

6.3.a.4. Overseeing procedures to maintain and ensure compliance with ~~the provisions of W. Va. Code Chapter 49, Article 2,~~ 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. When 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. An agency shall not permit an 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, to serve on the governing board of the agency.

6.4. Standards of Ethical Conduct.

6.4.a. An agency shall develop and implement written standards of ethical conduct for its governing board and its 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 Chapter 49, Article 2 (Part I) 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 §49-5-101 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 W. Va. 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 all records, during operation, after closure of a home or agency and after discharge of a client, in accordance with all state and federal guidelines applicable to each record.

6.5.e. An agency shall provide specific training for employees, ~~foster parents, and adoptive parents~~ Foster/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 the 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 develop and implement 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.~~ Records for each child or young adult in placement ~~Each child's or young adult's record shall~~ be accurate, maintained and include:

6.6.a.1. The child's name, social security number, sex, race, biological family's religious preference, if any, 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~~ Foster/Adoptive Parents where the child is placed, including the dates of placement and removal;

6.6.a.6. The date of placement, including respite care, name, address and telephone number of the referring agency, the name 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 child's 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 summary₂;

6.6.a.10.B. The child's current legal custody status₂;

6.6.a.10.C. A list of prior placements with dates and summaries of the discharges₂;

6.6.a.10.D. A copy of the child's birth certificate or other verification of a birth date₂;

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

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 plan, casework activities, counseling reports, special incident reports and an aftercare plan;~~

6.6.a.14. All service and treatment plans, casework activities, counseling reports, special incident reports and an aftercare plan.

6.6.a.15. Records that show reasonable efforts were made to obtain the above mentioned information and/or documentation. If the agency cannot obtain the information or documentation mentioned above, after continued efforts to do so, it shall not be held in violation of regulatory standards under 6.6.a. However, the agency shall continue to document on-going efforts to obtain any needed information/documents during the child's placement.

6.6.b. ~~Foster and Adoptive Parents.~~ Each record for ~~foster or adoptive parents~~ Foster/Adoptive

Parents shall be accurate, maintained and 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 ~~foster or adoptive parent's~~ Foster/Adoptive Parent's home;

6.6.b.4. The date and conditions of approval as ~~foster or adoptive parents~~ Foster/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 ~~foster or adoptive parents~~ Foster/Adoptive Parent's financial status, marital status, medical examination, and a written report of the interviews with their 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 the 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~~ Foster/Adoptive Parents that they have received a copy of the policies and procedures of the agency regarding the care and placement of a child;

6.6.b.11. A ~~completed Statement of Criminal Record form, the CIB report, WV CARES self-disclosure and consent form, a fitness determination of eligibility from the Department, and any approved variances or waivers from the Secretary;~~

~~6.6.b.12. A completed "Statement of Child Abuse or Neglect History" form;~~

6.6.b.12. Documentation of a review completed every five years of the Department's Special special incident reports, investigations of child abuse or neglect allegations, noncompliance with the agency's policies or procedures or the requirements of this rule;

6.6.b.13. Plans of correction; and

6.6.b.14. The date of closure and closure summary report.

6.6.c. ~~Employees.~~ Each record for an employee shall be accurate, maintained and 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 references,~~ written or verbal, from unrelated individuals, 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 job performance evaluation completed at six (6) months, and copies of subsequent annual evaluations;
- 6.6.c.7. Reports of any actions or incidents relating to employment;
- 6.6.c.8. Verification of completion of required training, including information on the course title, date and hours of instruction, and the name of the instructor;
- 6.6.c.9. . A ~~completed "Statement of Criminal Record"~~ WV CARES self-disclosure application and consent form, a fitness determination of eligibility from the Department, ~~the CIB report~~ and any approved variances or waivers from the Secretary;
- ~~6.6.c.10. A Completed "Statement of Child Abuse or Neglect History"~~
- 6.6.c.~~11~~10. Acknowledgment of receipt of the agency's employee manual; and
- 6.6.c.~~12~~11. A notice of resignation or termination from the agency.
- 6.6.d. ~~Biological Parents.~~ Each record for biological parents shall be accurate, maintained and 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. A description of all services and programs provided to parents;
 - 6.6.d.3. Information regarding the 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 develop and implement a written protocol for quality assurance that monitors and evaluates the agency's 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 include 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 Chapter 49, Article 2, 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 agency's goals, objectives and priorities;

6.7.a.3.B. The agency's organizational structure, services and programs provided within the state of WV;

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 the 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, the 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~~ another planned living arrangement, legal guardianship and adoption;

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

6.7.a.3.J. The number of times passive physical restraints were used, and the 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 establish an emergency telephone system that is available twenty-four (24) hours a day, seven (7) days a week, and have incident reporting 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 guardian or child abuse hotline and a law enforcement authority immediately ~~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, medical care obtained and law enforcement notified;

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 emergency or incident, 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/treatment 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~~ Foster/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~~ Foster/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~~ Foster/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, with identified consequences and outcomes on the plan of correction and provide for its tracking and monitoring.

§78-2-7. Staffing Process.

7.1. Staffing Plan.

7.1.a. An agency shall develop and implement 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. An agency shall designate a supervisor for each separate service or program.

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 the staff contact with children.

7.1.e. The agency shall revise as needed the staffing plan 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 ~~non-discriminating~~ non-discriminating employer with regard to race, color, creed, religion, ~~sex~~ gender, sexual orientation, 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~~ be subject to the provisions of the WV CARES Act and WV CARES rules before employment, and at the expiration of rap back enrollment;

7.2.g. A procedure for an immediate suspension of an employee upon any felony or misdemeanor indictment for an ~~a disqualifying offense against a person, public indecency, or violation of the Uniform Controlled Substances Act, W. Va. Code §60A-1-101 et seq.,~~ until the charges are resolved, and a requirement that the employee notify the director of any criminal indictment within twenty-four (24) hours. This procedure shall require that an employee convicted of these charges shall no longer be permitted to provide direct services to children and their families.

7.2.h. A policy on the ~~Statement of Child Abuse or Neglect History form~~ background check requirements stating that:

7.2.h.1. Potential employees must sign a Protective Service Check form, which will be submitted to the DHHR for processing prior to employment;

7.2.h.2. A potential employee with a Protective Service Check result indicating a positive history for adult or child abuse and neglect shall not be employed.

~~7.2.h.1.~~ 7.2.h.3. Upon employment, employees shall sign and date a statement that defines child abuse or neglect, as defined in subsection ~~3.6.~~ 3.14 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.~~ 7.2.h.4. 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/treatment 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 agency's director or his or her designee within twenty-four (24) hours;

7.2.i.2. That excursions are case-related only;

7.2.i.3. That a child not stay overnight in the home of an employee, and that any other daytime home visit, including a holiday, requires 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; and

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 may:

7.2.j.1. Not be considered for ~~foster or adoptive parenting~~ Foster/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 develop and implement 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 the manual's implementation, review or revision.

7.4 Background Checks. An agency shall submit ~~a request for a Criminal Identification Bureau (CIB) check and a Protective Services Record check to the Department of Health and Human Resources~~ an application to the WV CARES unit of the Department and receive a fitness determination of eligibility or variance on each potential employee prior to the employee working with children. ~~An agency may submit CIB record checks directly to the West Virginia State Police as permitted by department policy.~~ The agency

must document that it has completed the background check process pursuant to W. Va. Code §16-49-3. ~~pursued the completion of the records check vigorously. The agency is responsible for following policies and procedures with regard to researching possible criminal and protective services backgrounds as established and disseminated by the Secretary.~~

§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. The agency shall require the following qualifications for each position.

8.1.a. The Executive Director shall possess 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 possess:

8.1.b.1. An advanced degree from an accredited program of social work education or a comparable human service field and two (2) years of direct practice experience; or,

8.1.b.2. An advanced degree from an accredited program or social work education or a comparable human service field and be licensed within the scope of their professional practice; or,

8.1.b.3 A Bachelor's degree in social work or a comparable human service field and two years of experience in a human services related 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 §§30-3-1 et seq., 30-14-1 et seq., 30-21-1 et seq., 30-30-1 et seq., or 30-31-1 et seq.

8.1.d. Homefinders shall have:

A valid West Virginia Board of Social Work Examiners license, or a Bachelor's degree and two years' experience in a related human service field supervised by a licensed master's level psychologist, social worker or counselor.

8.1.e. Case Managers shall have:

8.1.e.1 A Bachelor's degree in social work or a related human service field, or an advanced degree from a program of social work education or a comparable human service field.

8.1.e.2. Supervision for case managers not licensed within the scope of their practice shall be provided by a person with an advanced degree in social work or a comparable human service field who

has at least two (2) years experience or has an advanced degree in social work or a comparable human service field and is licensed in their field.

8.1.e.3. The Department requires agency employees to obtain professional continuing education or course work as specified in 8.2.d.2.

8.1.f. Para-Professional employees shall possess:

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

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

8.1.f.3. If they provide direct services to clients, in addition to the general required training, 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 develop and implement a comprehensive plan for employee orientation, ongoing training and 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's philosophy, goals and objectives;

8.2.a.2. An overview of the agency's operations;

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

8.2.a.4. The service/treatment planning process;

8.2.a.5. Interviewing techniques;

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

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

8.2.a.8. Mandatory reporting requirements for child abuse and neglect.

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

8.2.c. Supervised Practice. An agency shall have a written policy regarding supervision of personnel involved in direct service. The policy shall stipulate frequency and type of supervision based upon job position and experience of the personnel.

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 relevant to their job to include, ~~including assessment of family dynamics, human growth and development~~, values and cultural diversity, ethics, child abuse and neglect issues, 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 to be determined by the experience of an employee and the amount of consultation and guidance the employee needs.

8.2.e.2. An agency shall require a supervisor to complete performance evaluations for each employee after the first six (6) months and annually thereafter. The evaluation shall include goals and objectives for the employee, be signed and dated by the supervisor and 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 develop and implement 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. An agency shall require that a contracted professional providing direct services to a child in placement, on site, or who provides services to children outside of the office location, provide written reports to the child's case manager.

8.4. Volunteers/Student Interns/Foster Parents.

8.4.a. An agency which has individuals who have any unsupervised contact with children ~~uses volunteer services, including student field placements and internships~~, shall develop and implement 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/treatment 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 complete background checks in accordance with the provisions of the WV CARES Act and rules for all volunteers. ~~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~~ medical screening by a qualified medical practitioner ~~physician~~ and a tuberculosis test with negative test results, if indicated as needed by the screening, within three (3) months of prior to providing services to children and once a year thereafter.

~~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, and shall give to the adoptive and foster parents a handbook stating the necessary policies, procedures, laws and forms.~~

~~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 The Child's Family's Basic Rights.

9.1. For the child and the child's 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; and

9.1.f. Contact between a child and his or her biological family is not restricted as a means of punishment or in any way except as specified by court order or documented in the child's service/treatment plan. 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~~ Foster/Adoptive Parents.

9.1.g. Respect for the child and biological families beliefs.

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. Clean and safe surroundings with A adequate shelter, food and clothing;

9.2.b. Education and training;

9.2.c. Services necessary to promote safety, permanency and well-being;

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 develop and implement policies to ensure that a child in placement's maximum health and safety needs are met by including receiving the following:

9.3.a. The level of supervision required in the service/treatment 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 treatment, vision, hearing and dental treatment:

9.3.c.1. An initial general medical examination ~~by a physician thirty (30) days before placement or within 72 hours~~ thirty (30) days after placement, if this is a first placement in foster care, and routine medical examinations and immunizations after that as recommended for the child's age, as indicated by ~~In addition, children placed by the Department shall be treated in accordance with the Sander's Consent Decree, which is an agreed order between the Department and the court to provide medical care to children in the Department's custody, and the Health Check requirements available through the Department of Maternal and Child Health;~~

9.3.c.2. ~~Immunizations as recommended by the American Academy of Pediatrics;~~ For a child age four (4), an eye screening by optometrist within thirty (30) days after placement and follow up as indicated by Health Check requirements;

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 aids, and a prosthetic or corrective devices.

~~9.4.~~ 9.3.d. Children with Extraordinary Medical Needs. An agency will ensure that for Children with Special Medical Needs, that the following will occur: - Before accepting a child with an extraordinary medical need beyond routine and preventive medical care, an agency shall ensure that:

~~9.4.a.~~ 9.3.d.1 A medical examination that occurs within seventy-two hours after placement, unless a medical examination can be documented within the previous thirty (30) days, the child is examined by a physician within seven (7) days before initial placement, and the physician documents that

the child can be appropriately cared for in a home setting;

~~9.4.b.9.3.d.2~~ 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.9.3.d.3~~ The ~~foster or adoptive parents~~ Foster/Adoptive Parents receive all of the training necessary to care for the child prior to placement;

~~9.4.~~ ~~The foster or adoptive~~ Foster/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~~

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

9.4.a.~~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.b. The Foster/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 observed side effects and any change in the medication that the physician makes;

9.4.c.~~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.d.~~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 establish procedures for medication errors in dosage, administration or adverse side effects that include contacting the prescribing physician and documenting the incident;

9.4.f. The agency shall ensure that psychotropic medication is administered in accordance with the following:

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; ~~and~~

9.4.f.2. The child's ~~foster or adoptive parents~~ Foster/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.f.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. Religious Preferences.

9.5.a. An agency shall develop and implement a written description of its religious orientation, if any, 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'~~ Foster/Adoptive Parents' religious preferences, if any, prior to placement; and

9.5.c. Upon a child's admission, an agency shall determine the religious preference of the child, if any, and the child's parent or guardian. The agency shall ensure the opportunity for the child to attend the religious service of his or her choice if he or she expresses one.

9.6. Multiethnic Placements.

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.~~ 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.

9.6.c. In accordance with the Multiethnic Placement Act of 1994 as amended by the Removal of Barriers to Interethnic Adoption Act of 1996, an agency shall not delay or deny a child's foster care or adoptive placement on the basis of the child's or the prospective parent's race, ethnicity, color, or national origin.

9.6.d. An agency cannot deny any individual the opportunity to become a ~~foster or adoptive parent~~ Foster/Adoptive Parent on the basis of the prospective parent's or the child's race, color, ethnicity, or national origin.

9.7. Behavior Management and Discipline. An agency shall provide policies and procedures for ~~foster or adoptive parents~~ Foster/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~~ Foster/Adoptive Parents, and the biological parents or guardian.

9.7.a. An agency will develop policies and practices that ensure Appropriate methods of discipline ~~include~~ are utilized, including but not limited to:

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

9.7.a.5. That measures are administered close to the time of the child's act or behavior for teaching purposes and if time out 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.6.A. That passive physical restraint be used only after receiving training on the agency approved method of restraint; and

9.7.a.6.B. That the ~~foster parents~~ Foster/Adoptive 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 of the intervention or the next working day after the intervention.

9.7.b. ~~Inappropriate methods of discipline.~~ An agency shall develop and implement policies and procedures that ensure that a child is not disciplined with cruel, harsh, unusual or unnecessary punishment, and shall develop and implement a description of inappropriate ~~those~~ measures and methods of discipline 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 child's 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/treatment plan; or

9.7.b.9. Administering a medication that has not been prescribed.

9.7.c. An agency shall ensure that behavior problems are treated individually and privately. If there is a consistent pattern of unacceptable behavior, an agency shall develop a separate behavior

management plan to be added to the child's service/treatment plan.

9.8. The Child's Financial Resources.

9.8.a. An agency shall ensure that money earned, received as a gift, or given as an allowance is 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/treatment 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/treatment 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.

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 the child's family, and that have authority to make the referral.

10.1.b. An agency shall develop and implement 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 a child's 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 child's biological parents or guardian, or the ~~foster or adoptive parents~~ Foster/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, the child's biological 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/treatment planning process.

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

10.3.a. Specific services to be provided;

10.3.b. A description of the fees or reimbursement;

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~~ Foster/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. Intake Service/Treatment Plan. Based on the intake interview and available referral information, an agency shall develop an intake service/treatment 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, and the Foster/Adoptive Parents. The plan shall include:

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

10.4.b. The objectives of the 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 service/treatment 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. A projected goal date for the development of the service/treatment plan.

10.5. ~~Child Assessment~~. An agency shall complete a detailed ~~narrative~~ strength based needs ~~on the child~~ assessment prior to developing the service/treatment 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. A complete developmental history, including birth and health history, and deviations from the normal range of development;
- 10.5.f. A biological family history and background that provides:
 - 10.5.f.1. A physical description and health history of each family member;
 - 10.5.f.2. A description of the biological mother's pregnancy, including prenatal care, nutrition, and use of alcohol or drugs;
 - 10.5.f.3. The formal education and training, functional level, and occupation of each family member;
 - 10.5.f.4. The special interests, religious preferences, if any, achievements and abilities of each family member;
 - 10.5.f.5. The relationship of each family member to the child;
 - 10.5.f.6. A description of the child's or family's support system; and
 - 10.5.f.7. 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. A description of the child's relationships with peers and significant adults outside of the family;
- 10.5.k. The 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. The date and signature of the employee completing the child assessment; and
- 10.5.o. For emergency placements, a summary of circumstances that describe the immediate

conditions that led to the placement and as much information as is available about the child at the time of admission, completed within two (2) working days of admission.

10.6. Match Summary.

An agency shall use an evaluation of the child's needs and strengths and the information provided by the referring entity to develop a match summary that shall be used to place a child with an appropriate family.

10.7. The Interstate Compact on the Placement of Children (ICPC).

10.7.a. Before placing a child in a ~~foster or adoptive~~ Foster/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 in accordance with W. Va. Code § 49-7-101 et seq. and § 49-7-201.

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.

10.7.c. Both the originating state and receiving state must approve the child's movement in writing before the child can legally leave the originating state.

10.8. Preparation of a Child for Placement.

10.8.a. An agency shall prepare a child for a placement, 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 planning team to develop a service/treatment plan for a child's 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, Foster/Adoptive Parents, 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. An agency shall ensure that any plan developed from the Multi-Disciplinary Team process assists in the development of the service plan, and any service plan developed by the agency shall not conflict in any manner with the Child's Case Plan.~~

10.10. Service/Treatment 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 service/treatment 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/treatment plan.

10.10.c. The service/treatment 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; and provisions for supervision when the child's Foster/Adoptive Parents are not present.

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. An agency shall ensure that the service/treatment plan is signed and dated by the planning team, and a copy given to each member.

10.10.e. When a planning team member is unable to participate, the reasons for non-participation shall be noted on the service/treatment plan.

10.10.f. An agency shall ensure that the service/treatment plan and subsequent revisions are explained to the child, his or her biological parents or guardian, and the ~~foster or adoptive parents~~ Foster/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 service/treatment plan is explained, the reasons for the lack of explanation shall be documented in the plan.

10.11. Service/treatment Plan Review.

10.11.a. An agency shall ensure that each child's service/treatment plan is reviewed by the planning team no less often 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/treatment 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 develop and implement a protocol for transferring a child from one ~~foster or adoptive~~ Foster/Adoptive home or placement to another within the agency that includes:

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

11.1.b. Documentation of a 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, specifically the child's guardian, of the new placement. Notification shall occur not less than forty-eight (48) hours prior to a transfer, ~~under W. Va. Code § 49-4-608,~~ or in an emergency transfer situation, not less than forty-eight (48) hours after the placement, ~~under W. Va. Code §49-4-608;~~

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~~ Foster/Adoptive 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~~ Foster/Adoptive Parents shall be given a copy of the child's current service/treatment plan and a summary of the child's social, medical, psychological and school history;

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

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/treatment plan, the agency shall provide the following information to the child's placing worker, ~~as required under W. Va. Code §49-4-608:~~

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/treatment plan.

11.2. An agency shall develop and implement a written ~~protocol~~ procedure for transferring a child to a placement outside of the agency's program.

11.3. An agency shall develop and implement a written ~~protocol~~ procedure for terminating the placement of a child in a ~~foster~~ Foster/Adoptive home after eighteen (18) months, ~~and the protocol shall be in accordance with W. Va. Code §49-4-111.~~

11.4. 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/treatment 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 which 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 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 develop and implement a written protocol for unplanned discharges that are not in the child's service/treatment 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 develop and implement 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 himself or herself or others;

11.6.b. The 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. An agency shall notify the placing worker, the biological parents or guardian, and the primary case manager of the discharge 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; and

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 child's 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 which 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 an unplanned discharge if it is not in accordance with the child's service/treatment 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~~ Foster/Adoptive Parents.

~~8.5.a.~~ 12.1. An agency that provides adoption or foster care services shall operate the program in accordance with this licensing rule, and shall give to the adoptive and foster parents a handbook stating the necessary policies, procedures, laws and forms.

~~8.5.b.~~ 12.2. 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.e.~~ 12.3. An agency shall give foster, adoptive and biological parents the opportunity to participate in the review and revision process.

~~12.1.~~ 12.4. An agency shall develop and implement a written description of the responsibilities of ~~foster and adoptive parents~~ Foster/Adoptive Parents to the child, to the child's family and to the agency.

~~12.2.~~ 12.5. An agency shall develop and implement a policy detailing its responsibilities to ~~foster and adoptive parents~~ Foster/Adoptive Parents. The policy shall require the agency to:

~~12.2.a.~~ 12.5.a. Provide to the ~~foster or adoptive parents~~ Foster/Adoptive Parents a copy of the policy that describes the responsibilities of the ~~foster or adoptive parents~~ Foster/Adoptive Parents and the agency in the placement of a child;

~~12.2.b.~~ 12.5.b. Provide that the agency's emergency telephone on-call system be operational at all times;

~~12.2.c.~~ 12.5.c. Inform ~~foster or adoptive parents~~ Foster/Adoptive Parents about the agency's grievance procedure;

~~12.2.d.~~ 12.5.d. Provide ~~complete~~ all available information about a child's background, his or her current physical, mental, emotional and behavioral functioning and any special needs prior to placement; Additional information that is not available at the time of placement, will be provide as obtained by the agency;

~~12.2.e.~~ 12.5.e. Involve ~~foster parents~~ Foster/Adoptive Parents on the child's service/treatment planning team and provide them a copy of the child's intake service/treatment plan and all subsequent plans;

~~12.2.f.~~ 12.5.f. Provide ongoing training, guidance and support, including crisis support;

~~12.2.g.~~ 12.5.g. Provide periodic respite care for a child in a foster care placement; The agency will make the foster parent aware of the difference between respite care, certified child care and babysitting;

~~12.2.h.~~ 12.5.h. Provide complete information about the procedures to be followed when an allegation of child abuse or neglect, or a complaint of noncompliance with licensing rules or agency policy is made;

~~12.2.i.~~ 12.5.i. Maintain the confidentiality of records according to agency policy and procedure;

~~12.2.j.~~ 12.5.j. Provide ~~foster parents~~ Foster/Adoptive Parents access to their own record with the exception of reference letters and reference interviews;

~~12.2.k.~~ 12.5.k. ~~Provide foster parents liability and personal loss coverage for loss or damage occurring as a result of their role as foster parents;~~ The agency must have policies and procedures that protect Foster/Adoptive Parents from financial responsibility for loss or damage by foster children that exceeds the coverage provided by personal homeowners insurance.

~~12.2.l.~~ 12.5.l. Give ~~foster parents~~ Foster/Adoptive Parents ten (10) working days notice prior to removing a child, unless it is an emergency situation;

~~12.2.m.~~ 12.5.m. Inform adoptive parents of the child's legal status prior to and upon the final adoption; and

~~12.2.n.~~ 12.5.n. Inform adoptive parents of the legal procedures involved in adoption under ~~W. Va. Code §48-4-1 et seq.~~ Art. 22, Ch. 48 of the W.Va. Code.

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

13.1. Personal Characteristics.

13.1.a. An agency shall accept applications from and recruit ~~foster and adoptive parents~~ Foster/Adoptive Parents with the life experiences, personal characteristics and temperament suitable for working with children in need of care and shall provide verification of marital status, if applicable, upon request.

13.1.b. An agency must not deny any individual the opportunity to become a Foster/Adoptive Parent on the basis of race, color, or national origin, of the individual or child. Furthermore, the agency must not discriminate against an individual on the basis of age, disability, gender, religion, sexual orientation, gender identity, or marital status.

13.1.c. All applicants for Foster/Adoptive Parents must submit a complete application and accompanying documentation for foster family home certification, and keep a copy of the application and documents in their home.

~~13.1.b.d.~~ Foster and adoptive parents Foster/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 and be able to openly communicate, in the child's own language, with children placed in the home.

~~13.1.e.~~ e. Newly approved ~~foster and adoptive parents~~ Foster/Adoptive Parents shall be age 18 or older not less than twenty one (21) years of age and not more than sixty five (65) years of age unless a waiver is granted by the Secretary.

13.1.f. Newly approved Foster/Adoptive Parents must have the ability to cooperate and communicate with licensing agency staff, health care providers and other providers of services.

13.1.g. Newly approved Foster/Adoptive Parents must have functional literacy; they must be able to read and interpret labels on medications and be able to administer the medications appropriately and accurately.

13.1.h. Newly approved Foster/Adoptive Parents must have adequate income and resources to be able to meet their costs for food, shelter, utilities, clothing and other household expenses in a timely fashion, prior to the addition of a foster child into the home.

~~13.1.d.~~ i. Prior to approval, each ~~foster and adoptive parent~~ Foster/Adoptive Parent shall provide the agency with a written ~~or tape recorded~~ detailed personal history in his or her own words which may

include:

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

13.1.~~d~~. i.2. Education and employment history;

13.1.~~d~~. i.3. Important life experiences;

13.1.~~d~~. i.4. Values, ideals, religious beliefs, if any, and practices;

13.1.~~d~~. i.5. Health history, including use of drugs or alcohol;

13.1.~~d~~. i.6. Hobbies and interests; and

13.1.~~d~~. i.7. Parenting or child care experience;

13.1.i.8. Motivation for becoming a Foster/Adoptive Parent.

13.1.~~e-j~~. At the time of consideration by an agency, ~~foster and adoptive parent~~ Foster/Adoptive Parents shall disclose and sign a release of information detailing any current or previous experience with other licensed agencies or the Department, and if they are 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~~ Foster/Adoptive Parents, shall provide the agency with the following health documentation:

13.2.a.1. An initial medical exam report, which are no older than 12 months prior to the application, from a physician for ~~the foster and adoptive parents and all other~~ household members certifying they are in good health, free of communicable diseases, and have had a tuberculin risk assessment or skin test. When TB results are positive, documentation of a physician's recommended follow-up must be on file. An agency shall require documentation of medical exams and TB risk assessment every five (5) years from foster parents;-

13.2.a.2. Documentation on the medical report that they are capable of caring for an additional child;

13.2.a.~~3~~2. Immunization records for the family's own children and documentation that they are up to date on immunizations as recommended by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention and the American Academy of Family Physicians, unless the immunization is contrary to the child's health as documented by a licensed health care professional; and

13.2.a.~~4~~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~~ Foster/Adoptive Parents whose health, behavior, or emotional or psychological make-up may endanger the well-being of a child, and shall develop and implement 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 parents~~ Foster/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. Living Arrangements.

13.3.a. The total number of children in a ~~foster home~~ Foster/Adoptive Home, including the family's own children living in the home, may not exceed six (6) of which no more than five (5) may be children in foster care.

13.3.b. An agency shall not permit a family to parent more than two (2) children less than two (2) years of age in the same home at the same time.

13.3.c. ~~Foster parents~~ Foster/Adoptive 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.

13.3.d. ~~Foster parents~~ Foster/Adoptive Parents shall not provide day care or babysitting services in the home for unrelated children for compensation.

13.4. References.

13.4.a. ~~Foster and adoptive parents~~ Foster/Adoptive Parents shall provide the agency with the names of not less than four (4) references from persons who are not related to the parents.

13.4.b. The agency shall ensure that one (1) ~~three (3)~~ of the four (4) references are interviewed face-to-face. The other three (3) references can be interviewed face-to-face or by telephone to discuss in detail their responses and any related information. Video Conferencing or Face Time may be used for face-to-face interviews. Only one (1) reference may be in written form only. Copies of these interviews shall be signed and dated by the interviewer.

13.4.c. An agency shall not approve a ~~foster or adoptive home~~ Foster/Adoptive Home unless all references for the ~~foster and adoptive parents~~ Foster/Adoptive Parents are positive in nature.

13.5. Finances and Working Arrangement.

13.5.a. ~~Foster and adoptive parents~~ Foster/Adoptive Parents shall provide the agency with documentation of sufficient income and financial resources to meet their financial obligations.

13.5.b. If ~~foster parents~~ Foster/Adoptive Parents are, or a single ~~foster parent~~ Foster/Adoptive Parent is, employed outside the home, the agency shall approve a plan for the care and adult supervision of the child during work hours, and the plan shall be included in the child's service/treatment plan.

13.6. Background Checks.

13.6.a. ~~Prior to approval, all adult household members over the age of 18 shall complete CIB and a "Statement of Criminal Record" form.~~ be subject to the provisions of the WV CARES Act and rules, and a search of Department records of substantiated findings of abuse or neglect.

13.6.b. ~~Prior to approval, all adult~~ All household members must report any juvenile offenses on a continual basis. The existence of a juvenile record does not automatically exclude the home from being approved, but the agency must consider the suitability of the home based on the criteria used to assess crimes and abuse and neglect history, that would affect the ability to approve a home. ~~shall complete a "Statement of Child Abuse or Neglect History" form and a signed release of information authorizing the Department to verify the information.~~

13.6.c. ~~An agency shall not approve a home for foster care or adoption in which a household member has any convictions other than minor traffic violations. Special circumstances may allow a waiver to be granted by the Secretary. A childcare provider, for a Foster/Adoptive Family, shall meet the same criteria for background checks and protective service record checks as the Foster/Adoptive Parent, or be a licensed childcare provider.~~

13.7. Transportation. An agency shall require that:

13.7.a. ~~Foster and adoptive parents~~ Foster/Adoptive Parents have reliable transportation available, to ensure that children in foster care have legal and safe transportation to and from health care, therapy, and agency appointments; school extracurricular activities; social events; and scheduled meetings or visitation with parents, siblings, extended family members and friends;

13.7.b. All vehicles used to transport children be maintained in safe running condition and in compliance with state law, such as having a valid inspection sticker, registration and insurance.

13.7.c. ~~Foster and adoptive parents~~ Foster/Adoptive Parents show proof that any the vehicles used to transport children in foster care are covered by liability insurance and that all licensed drivers are included in the insurance policy.

13.7.d. ~~Foster and adoptive parents~~ Foster/Adoptive Parents must ensure document that anyone who will transport children in foster care has a valid driver's license and their vehicle meets the requirements of 13.7.b.

13.7.e. ~~Foster and adoptive~~ Foster/Adoptive Parents must ensure that use safety seats and seat belts are used and are appropriate for a child's age, height and weight, when transporting children in foster care.

13.7.f. Foster/Adoptive Parents must ensure that any weapon transported in a vehicle is maintained in an inoperable condition and inaccessible to foster children. Foster/Adoptive Parents who are law enforcement, may be exempt from these requirements, but must comply with 15.7.c.1 and 15.7.c.2, of this rule.

13.8. Respite Parents. An agency shall require that:

13.8.a. They meet the same criteria and standards as foster/adoptive parents

13.8.b They have the same background checks that foster/adoptive parents are required to have.

13.8.c. They enter into the same cooperative assurance agreement with the agency that foster/adoptive parents sign.

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

14.1. ~~Foster and adoptive parents~~ Foster/Adoptive Parents shall enter into a signed, cooperative assurances agreement with an agency that is reviewed upon initial certification, placement of a child in the home and annually thereafter, that includes the provisions that ~~foster and adoptive parents~~ Foster/Adoptive parents shall:

14.1.a. Maintain compliance with §78-2-15 of this rule, Safety Requirements for Foster/Adoptive Homes;

14.1.b. Maintain compliance with §78-2-13 of this rule, Transportation;

14.1.~~a~~ c. 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~~ d. Maintain the records and other documentation required by an agency;

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

14.1.~~d~~ f. 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~~ g. Follow an agency's policy on discipline and on confidentiality of the child's records, Foster/Adoptive Parents will not use any corporal punishment or degrading punishment on any children in the home;

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

14.1.i. Household members will not use any illegal substances, abuse alcohol by consuming it in amounts that impede the ability to parent or abuse legal prescription and nonprescription drugs by consuming them in excess amounts or using them contrary to as directed;

14.1.j. Household members and any guests in the home, will not smoke in the presence of the child in foster care, in the Foster/Adoptive Home, or in any vehicle used to transport the child;

14.1.k. Children in foster care will be closely supervised when they are in a close proximity to a swimming pool, or any body of water or their access must be restricted, if close supervision cannot be provided. A child must never be left alone to swim;

14.1.~~g~~ l. 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~~ m. Give an agency not less than thirty (30) days' notice when requesting the voluntary

closure of their home; ~~and~~

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

14.1.o. Provide all youth a sense of “normalcy”, by using a reasonable and prudent parent standard when determining what activities and opportunities a youth is involved in;

14.1.p. Inform the agency when a youth has been absent from supervision or has run away from the home immediately; and

14.1.q. Inform the agency if a youth, who was on runaway status or absent from supervision, returns to the home and reports that they have been a victim of sex trafficking or labor trafficking, immediately.

§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~~ Foster/Adoptive Home, mobile home, housing unit or apartment present no health or safety hazards, and that they are sufficiently clean and comfortable to ensure the well-being and respect of the family in the community.

15.2. An agency shall ensure that all approved homes have an indoor and an outdoor recreation area free of unsanitary or hazardous items and each home has toys available to children which are appropriate for their ages.

15.3. For sleeping, an agency shall ensure that:

15.3.a. Each child shall have a sleeping space with an individual bed or crib with appropriate mattress and linens, that is not a cot or roll away bed;

15.3.b. Sleeping items are appropriate for the child’s needs and age and similar to other household member’s sleeping items;

15.3.c. All cribs in the home are in compliance with the Consumer Product Safety Commission Standards;

15.3.d. All bunk beds in the home have no more than two (2) tiers, and have railings for the top tier on both sides of the bed and adequate space from the top to the ceiling, for a child to sit upright while in bed;

15.3.e. Ceiling fixtures, such as lights and fans are out of the reach of small children and not pose a hazard to any child sleeping in a top bunk bed;

15.3.f. Children under the age of six (6) do not to use a top tier of a bunk bed;

15.3.~~b~~.g. No more than A maximum of four (4) children may share a bedroom;

15.3.~~e~~.h. A No child in foster/adoptive care shall not shares a bedroom or a bed with an adult, or a child of the opposite sex. A child less than two (2) years old may temporarily share a bedroom with a

Foster/Adoptive Parent only after the agency has obtained the written approval of the Department;

15.3.~~d~~.i. A child's bedroom is not ~~may not be~~ used for any other purpose; and must meet with the following standards:

15.3.i.1. A private door,

15.3.i.2. Four walls, with no pass-through doors to other rooms, and

15.3.i.3. Windows for light and an alternate escape route in case of emergencies;

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

15.4. An agency shall ensure that the ~~foster or adoptive home~~ Foster/Adoptive Home has an operative telephone available to children in foster/adoptive care at all times. ~~alternative devices such as citizen band radios and cellular telephones, must be approved prior to use.~~ In the event having a telephone is contrary to a family's religious beliefs, the agency shall ensure that emergency situations can be adequately addressed and that appropriate contacts can be made with the family and the child in a timely manner. The home will have a comprehensive list of emergency telephone numbers, including poison control and the list must be posted in a prominent place in the home. If the home has a landline, then the list will be posted next to the telephone.

15.5. An agency shall ensure that household items including cleaning supplies, toxic or flammable materials, medicines, and alcoholic beverages that may be hazardous to a child are stored in areas inaccessible to children, as appropriate for his or her age and development.

15.6. An agency shall ensure that all Foster/Adoptive Homes maintain first aid supplies as recommended by the Red Cross.

~~15.6.~~ 7. An agency shall ensure that weapons, related attachments and ammunition are stored in an inoperable condition, in a locked container inaccessible to children.

15.7.a. The following are considered weapons: firearms, air guns, BB guns, Hunting slingshots, and any other projectile weapon.

15.7.b. All ammunition, arrows or projectiles for these weapons must be stored in a locked space separate from the weapons.

15.7.c. Foster/Adoptive Parents who are law enforcement, may be exempt from these requirements if they can:

15.7.c.1. Provide documentation of their jurisdiction's requirement to have their weapon ready and immediately accessible at all times; and

15.7.c.2. Adopt and follow a safety plan that is approved by the agency.

15.7.8. An agency shall ensure that electrical and fire prevention safety inspections by the agency require:

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

15.7 8.b. That all age appropriate children will be walked through the fire escape plan and route with the ~~foster or adoptive parent~~ Foster/Adoptive Parent within twenty-four (24) hours of placement;

15.7 8.c. That a battery operated UL smoke detector be located near a child's bedroom and on each level of the home;

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

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

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

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

15.8.h. That a carbon monoxide detector be located near a child's bedroom and on each level of the residence.

15.8 9. An agency shall ensure that all mobile homes under consideration for placement homes are manufactured after 1976.

15.9 10. An agency shall ensure ~~that non-municipal water used in the home is tested and determined to be safe.~~ that the home has an appropriate source of clean water in the home and meets the following standards:

15.10.a. Non-municipal water used in a home must be tested annually and determined to be safe;

15.10.b. The water supply in the home must be continuous and safe for drinking;

15.10.c. A home must have at least one toilet, sink, and tub or shower in safe operating condition;

15.10.d. The water temperature of any water heaters must be set in accordance with the manufacture's recommendations;

15.11. A home must have kitchen facilities with a sink, refrigerator, stove and oven in safe operating condition;

15.12. A home must have heating and cooling as required by the geographic area and in safe operating condition;

15.13. A home must have adequate ventilation in all of the living areas;

15.14. A home, must have artificial light in areas where children study and read;

15.10 15. An agency shall ensure ~~that~~ children are not housed in detached housing, including travel trailers or unapproved rooms.

~~15.11~~ 16. An agency shall ensure ~~that~~ hot water heaters have a safety valve and supply sufficient hot water to adequately meet household requirements.

~~15.12~~ 17. An agency shall ensure ~~that~~ all animals owned by the ~~foster or adoptive parents~~ Foster/Adoptive Parents that come in contact with a child in placement, able to be vaccinated, are vaccinated as required by ~~state law~~ West Virginia Code §19-20A-2.

15.17.a. All foster/adoptive parents shall use the reasonable and prudent parent standard as defined above in Section 3.63 when exposing the child to animals, both in the home and out.

15.17.b Children will be instructed in the proper care methods before they are allowed to handle or care for an animal. All children must be carefully supervised when handling or caring for an animal.

15.17.c. All animal areas are to be kept clean and sanitary.

15.18. An agency shall ensure that the home and grounds are free of rodent and insect infestation;

15.19. An agency shall ensure that the home is free of trash and recyclables;

15.20. Foster/Adoptive Homes must meet the following standards concerning swimming pools, hot tubs and spas:

15.20.a. Swimming pools must have a barrier on all sides at least 4 feet high.

15.20.b. Swimming pools must have their methods of access through a barrier equipped with a safety device, such as a bolt lock. The swimming pool's entry points will be locked, when not in use. The steps or ladders will be secured or removed when the pool is not in use.

15.20.c. Swimming pools must be equipped with life saving device, such as a ring buoy.

15.20.d. For swimming pools that cannot be emptied after each use, the pool must have a working pump and filtering system.

15.20.e. Swimming pools must be maintained in a safe condition, including testing and maintaining the chlorine and pH levels as required by the manufacturer's specifications.

15.20.f. Wading pools must be maintained in accordance with the manufacturer's instructions, and emptied and stored appropriately when not in use.

15.20.g. Hot tubs and spas must have safety covers that are locked when not in use.

15.20.h. Water safety instruction must be provided to a foster child, when the home has a swimming pool or is close to a body of water. Water safety instruction addresses key knowledge and skills on how to be around water and does not necessarily mean swimming lessons.

15.21. Foster/Adoptive Homes may need to take additional steps to provide for the safety of the child in foster care, depending on the location of the home, and the age and any cognitive or behavioral challenges the child may have, such as placing a fence around an area to prevent a child from accessing nearby railroad tracks or a highway.

§78-2-16. Comprehensive Home Study.

16.1. An agency shall conduct a comprehensive written home study with the prospective ~~foster or adoptive parents~~ Foster/Adoptive Parents and all household members prior to placing a child in the home including a minimum of one (1) individual in-person, in home, interview for each adult household member parent and two (2) joint interviews, with prospective Foster/Adoptive Parents, and one (1) interview with each child residing in the home. The agency must complete at least one on-site visit to the home to assess the safety of the home using these rules.

16.2. An agency shall write a narrative report on the home study that lists the contact 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 and shall include:

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

16.3.b. The family's attitudes, values and level of understanding of child development and sex education;

16.3.c. The family decision making process, including descriptive examples;

16.3.d. The manner in which the family handles 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. Each child's, already residing in the home, attitudes and feelings on having a foster child in the home;

16.3.~~h~~ i. The parent's financial situation;

16.3.~~i~~ j. The parent's motivation to become foster or adoptive parents;

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

16.3.~~k~~ l. An account of discipline methods discussed with the family including:

16.3.~~k~~ l.1. Methods acceptable to the agency, and

16.3.~~k~~ l.2. The family's attitude about discipline and their past experiences with discipline methods;

16.3.~~l~~ m. A summary of the agency's discussion of the multiple aspects of a foster child's 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~~ n. 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~~ o. A summary of the agency's discussion with the adoptive parents about who would become the adopted child's guardian if both of the adopted parents died;

16.3.~~o~~ p. An account of the agency's discussion with the adoptive parents about open adoption;

16.3.~~p~~ q. The agency's discussion with the adoptive parents about health insurance coverage for the adoptive child before the adoption is finalized;

16.3.~~q~~ r. The agency's discussion with the adoptive parents about adopting a child with special needs, subsidies and the availability of community resources;

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

16.3.t. A provision of supervision when the Foster/Adoptive Parent is or Foster/Adoptive Parents are not present.

16.4. The home study shall identify the ~~foster or adoptive parents'~~ Foster/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, and gender of children for which the home may be approved for placement and any other special conditions or circumstances that may apply.

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

All employees who participated in the home study process shall have input into the ~~be involved in the~~ approval or denial of the home ~~for placement.~~ The agency director or designee will make final decision ~~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. Notification of Approval. An agency shall provide ~~foster parents~~ Foster/Adoptive Parents with a certification of the approval of their home ~~for placement,~~ including the names of the ~~foster parents~~ Foster/Adoptive 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 expires one (1) year from the date of issuance unless it is revoked;

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

17.3. 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~~.

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. Re-Evaluations for Approved ~~Foster and Adoptive~~ Foster/Adoptive Parents.

19.1. ~~For Foster Foster/Adoptive Parents.~~ An agency shall re-evaluate ~~foster parents~~ Foster/Adoptive Parents annually, prior to their certification expiration date, and complete a narrative summary that includes:

19.1.a. The names, ages, and lengths of stay of the children placed with the ~~foster parents~~ Foster/Adoptive Parents and the children's reasons for leaving;

19.1.b. An assessment of the ~~foster parents'~~ Foster/Adoptive Parents' ability to implement the children's service/treatment plans and any changes in the family's circumstances, such as family composition, employment changes, household changes, address changes, relationship changes;

19.1.c. An assessment of the ~~foster parents'~~ Foster/Adoptive Parents' attitudes on foster care, the foster child's biological family, and the agency;

19.1.d. An assessment of the ~~foster parents'~~ Foster/Adoptive Parents' strengths and weaknesses, including any corrective action plans implemented and the outcomes of those, any training completed and any training needed;

19.1.e. A summary of any Institutional Investigative Unit (IIU) investigations, the outcome of those investigations and any actions taken by the agency due to the investigations;

19.1.e-f. A recommendation for any changes in the conditions of approval, including any training needs identified; and

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

19.2. An agency shall renew a ~~foster family's~~ Foster/Adoptive Family's certificate of approval upon the successful completion of the annual evaluation.

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 wrote 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 participate in specified training curriculum.~~

~~20.1.b. An agency shall develop and implement 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, the agency shall complete foster parent orientation on the placement process, the agency's services and programs, legal aspects of foster care, the agency's 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 foster parents with 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 foster parents with 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 develop and implement 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.~~

§78-2-20. Training for Foster/Adoptive Parents.

20.1. An agency shall develop and implement a written plan for the training of Foster/Adoptive Parents, including orientation training, pre-service training, child-specific training, and annual in-service training.

20.1.a. Orientation Training. Prior to the placement of a child, the agency shall complete Foster/Adoptive Parent orientation and training on the placement process, the agency's services and programs, legal aspects of foster care, roles, responsibilities and expectations of foster parents, the agency's discipline policies, behavior management, including trauma informed care, reasonable and prudent parent standard, absent from supervision and runaway behaviors, sex trafficking and labor

trafficking, including reporting requirements, crisis de-escalation and intervention, and first aid training, including cardiac pulmonary resuscitation (CPR).

20.1.b. Pre-service Training. The annual in-service training shall be completed prior to the approval of the Foster/Adoptive Parents' annual re-evaluation. All pre-service training must be face to face.

20.1.c. Child-specific training.

20.1.c.1. An agency shall provide child-specific training to assist Foster/Adoptive Parents in implementing a child's service/treatment plan or a specific treatment objective.

20.1.c.2. After certification, an agency shall provide Foster/Adoptive Parents with a minimum of fifteen (15) hours of ongoing training, that is adequate to assist in the parenting of the population they are serving, during the first year of approval.

20.1.d. Annual Training. After the first year of approval, an agency shall provide Foster/Adoptive Parents with a minimum of twelve (12) hours of ongoing annual training.

20.2. An agency shall document in the Foster/Adoptive Parents' record the date, subject and brief description of the training, its duration, and the name and title of the training instructor.

20.3. Training for Foster/Adoptive parents who are going through the adoption process to become legal parents must include the minimum following topics:

20.3.a. Expectations of adoption, the potential adoptive child, and the adoption process, including pre-placement, availability of adoption subsidy and other financial assistance;

20.3.b. Attachment and bonding issues in adoption;

20.3.c. Adoption as a lifelong issue as it relates to the adoptee, birth parents, and adoptive parents, including search and reunion issues;

20.3.d. Multicultural and transracial adoption issues, if applicable;

20.3.e. Disclosure issues including the accuracy of family history information regarding the child and birth parent(s) family, discussion with the child and sharing information with others;

20.3.f. Issues Lesbian, Gay, Bisexual, Transgender, & Questioning (LGBTQ) youth face in school, the community and foster care system;

20.3.g. Legal aspects of adoption and procedures, including voluntary relinquishment, termination of parental rights, and adoption petition through finalization;

20.3.h. Open, semi-open, and closed adoption, including issues involving on-going contact and/or communication between child and adoptive family with biological family or other significant individuals;

20.3.i. Availability and access to community resources involving adoption issues and other issues relevant to parenting and services for children; and

20.3.j. Each foster/adoptive parent will maintain certification in CPR (cardio-pulmonary resuscitation) appropriate to the age of the child they plan to adopt, first aid, and universal precautions.

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

~~21.1. Presentation of a Child to Prospective Foster Parent.~~ An agency shall develop and implement a written procedure protocol for the presentation of a child to the prospective ~~foster parents~~ Foster/Adoptive Parents that includes the following provisions:

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

~~21.1.b. Upon request, the agency shall have a ~~profile~~ child's summary available for the prospective ~~foster parents~~ Foster/Adoptive Parents; and~~

~~21.1.c. An agency shall identify the needs and strengths of the child and provide the information to the foster/adoptive parent.~~

~~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 establish a procedure protocol for planned and emergency placements of a child in prospective foster/adoptive home that includes the following provisions:

~~21.2.a. Documentation required to show the child's introduction to the home and their adjustment to the home; and~~

~~21.2.a. At the time of placement the agency shall provide as much information as is known about the child to the prospective foster parents, and shall provide 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.e.b. An agency shall document the Documentation to show the planned or emergency placement process in the child's and the ~~foster parents'~~ Foster/Adoptive Parents' record.~~

~~21.3. Involuntary Closure of a Foster Home.~~ An agency shall establish 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. Foster/Adoptive Home Closure Information.

22.1. An agency shall establish a procedure for the closure of a Foster/Adoptive Home that includes the following provisions:

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

22.1.b. Specific procedures to follow when closing a home; and

22.1.c. The written notification that was provided to the Foster/Adoptive Parents.

22.2. When closures occur, documentation that the protocol was followed by the agency, shall be in the Foster/Adoptive Parents' record.

22.3. If a certified foster/adoptive home is closed on a voluntary basis and is in good standing, with no substantiated IIU investigations, the foster/adoptive parents may be reopened without repeating the certification process if:

22.3.a. They have had two or more years of fostering experience with at least one child;

22.3.b. No current out of home placement of their own adopted or legal guardianship children;

22.3.c. They complete the fingerprinting process again;

22.3.d. They have an updated homestudy and walkthrough/safety check of the home;

22.3.e. They have an updated CPR/First Aid certification and a fitness determination of eligibility from WV CARES,;

22.4. The Agency will determine and address any training needs within the first 12 months of reopening the foster home.

§78-2-232. Services to Biological Parents.

232.1. An agency shall ensure the protection of the legal rights of a child's biological parents to whom services are provided under a protocol that requires the agency to:

232.1.a. Comply with ~~W. Va. Code §48-4-1 et seq. and 48-4A-1 et seq.~~ Art. 22 & 23, Ch. 48 of the W.Va. Code and document that the biological parents have been fully informed about their legal rights;

232.1.b. Follow a specific policy for the voluntary relinquishment of a child according to ~~W. Va. Code §48-4-1 et seq.~~ Art. 22, Ch. 48 of the W. Va. Code; and

232.1.c. Follow 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.~~ Art. 2, Ch. 48 of the W.Va. Code.

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

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

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

232.2.c. Assistance in obtaining prenatal, maternity and postpartum care, health education, family planning services, and nutrition services; and

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

§78-2-243. Adoption.

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

243.1.a. Explaining the ~~foster parents'~~ Foster/Adoptive Parents' role in the adoption process;

243.1.b. Informing ~~them of~~ all Foster/Adoptive Parents of all plans for the child, including the child's placement planning; and

243.1.c. Providing support to ~~them~~ Foster/Adoptive Parents after the child has been placed in an adoptive home.

243.2. Presentation of Background Information.

243.2.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:

243.2.a.1. Prior to proceeding with an adoptive placement, ~~and an agency's~~ agency shall provide prospective adoptive parents with a complete verbal and written description of all available information on the child, including but not limited to, biological parents' family ~~histories~~ history and the prenatal care received by the biological mother;

243.2.a.2. ~~If the agency practices~~ In cases of open adoption, the agency shall prepare a pre-placement agreement to be signed by the biological parents and the prospective adoptive parents that identifies the amount of initial or ongoing contact, and written policies and procedures defining each party's role; and

243.2.a.3. An agency shall establish time frames for a decision by the prospective adoptive parents about proceeding with the adoptive placement.

243.2.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:

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

243.2.b.2. An agency shall show photographs or videos of the child to the prospective adoptive parents;

243.2.b.3. An agency shall provide a written summary including all information available about the child to the prospective adoptive parents;

243.2.b.4. An agency shall arrange a meeting between the child's foster parents or other caretakers and the prospective adoptive parents if appropriate to discuss the child's day-to-day behavior; and

243.2.b.5. An agency shall establish time frames for a decision by the prospective adoptive parents about proceeding with the adoptive placement.

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

243.2.c.1. The agency shall present information to the child about the prospective foster/adoptive parents, which may include pictures, the home study, by using a scrapbook or other media created by the prospective adoptive parents about themselves; and

243.2.c.2. The agency shall encourage the child's foster parents to be active partners in this process.

243.3. Adoption Placement Planning. An agency shall establish a protocol for placement planning that includes the following provisions:

243.3.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, as the situation allows; and

243.3.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.

~~243.4. Adoption Placement Services.~~ An agency shall establish a protocol for placement services that includes the following provisions:

243.4.a. An agency shall provide the child's school records, medical history, non-identifying social information and immunization records to the adoptive parents upon placement;

243.4.b. The agency and the adoptive parents shall sign the adoptive service agreement upon placement; and

243.4.c. The agency shall document the services it has offered or already provided to the child and the adoptive parents in the child's and adoptive parents' records.

243.5. Adoption Support Services Following Placement.

243.5.a. An agency shall develop and implement a written description of the support services offered following placement, which includes:

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

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

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

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

243.5.a.4.A. For new adoptive placements, An an initial telephone contact home visit is required within seventy-two (72) hours of placement and an initial another visit within one (1) week of placement;

243.5.a.4.B. A minimum of one visit per month, six (6) visits during the placement through finalization; at least four (4) of which are in the home of the adoptive parents;

243.5.a.4.C. In a two-parent family, both parents involved in at least three (3) visits; half of the home visits; and

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

243.5.a.5. ~~Visits with all household members, and the child shall be observed during each visit; and~~ The child's interactions with household members shall be observed during each visit; and

243.5.a.6. ~~If the child is old enough to carry on a conversation, an interview with him or her in private during each visit;~~ A private interview if age appropriate, shall be held with the child during each visit.

243.5.b. An agency shall continue to provide support services for a minimum of six (6) months ~~or longer~~ until permanent placement of the child 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. An agency shall provide a final visit with the adoptive family to review the adoption process prior to finalizing the adoption.~~

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

243.6. ~~Disruption of an Adoptive Placement.~~ An agency shall establish a protocol to ~~follow when a disruption in an~~ address potential disruptions of adoptive placements that requires the agency to; is being considered or appears imminent that includes a requirement that the agency;

243.6.a. Train employees to recognize and take steps to prevent the circumstances that can lead to the disruption of an adoptive placement;

243.6.b. 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;

243.6.c. Offer counseling to the child and adoptive parent(s) according to his or her needs in dealing with the disruption; and

243.6.d. Document the planning and services provided during a disruption in the adoptive parents' and child's records.

243.7. Placement of the Child After Disruption. An agency shall establish a ~~protocol~~ procedure to follow for subsequent placement after a disruption of the adoptive placement that includes the agency:

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

243.7.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 that includes:

243.7.b.1. The nature of the disruption, the extent of the difficulties that resulted from the disruption, the child's reaction to the disruption, and how separation and loss might affect the child's behavior;

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

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

243.8. ~~Finalization of the Adoption.~~ An agency shall establish a written protocol that conforms with ~~W. Va. Code §48-4-1 et seq.~~ Art. 22, Ch. 48 of the W.Va. Code for the finalization of an adoption that includes the following provisions:

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

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

243.8.c. Documentation of the child's ~~The written~~ consent ~~of~~ for a child twelve (12) years or older, to the adoption.

243.9. ~~Post-Legal Adoption Services.~~ An agency shall establish a protocol for the post-legal adoption services it offers, that includes the following provisions:

243.9.a. Adoption subsidy assistance;

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

243.9.c. Non-identifying Information about the biological family and birth history;

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

~~243.9.e.~~ Referrals for needed community services; and

~~243.9.f.~~ Information and counseling concerning the Mutual Consent Adoption Registry.

~~243.10.~~ An agency providing Inter-Country Adoption Services will have the following:

~~243.10.a.~~ An agency offering inter-country adoption services shall establish a ~~A~~ written protocol procedure that describes the process for handling inter-country placement and placement disruptions that provides for the well-being of the child, including an alternate placement plan;

~~243.10.b.~~ An agency offering inter-country adoption services shall establish a ~~A~~ written protocol procedure that complies with the Hague Agreement, the United States immigration laws and the laws of the sending country and protects the rights of the child and ~~birth biological~~ parents; and.

~~243.10.c.~~ The agency shall seek ~~l~~ legal counsel when necessary.

§78-2-245. Transitional Living Services Program—Including Transitional Living Scatter Site Settings

25.1. An agency may serve children, including transitioning adults, as defined in W. Va. Code §49-1-202.

~~254.2.1.~~ An agency shall develop and implement a manual of policies, procedures and forms for transitional living services, which will be provided to youth transitioning from foster care available to all employees that include the following:

~~254.21.a.~~ The information and documentation required under this licensing rule; and

~~254.21.b.~~ The date of implementation, review and revision of each policy, procedure or form;
and

~~24.1.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.

~~254.32.~~ An agency shall operate in accordance with its written policies and procedures.

~~254.43.~~ An agency shall establish eligibility criteria for transitional living services that include:

~~254.43.a.~~ Policies and provisions developed by an agency based on Department requirements; that specifies the services that will be provided to youth transitioning;

~~254.43.b.~~ Age requirements for youth child or young adult sixteen (16) years of age for transitional living scattered site settings transitional living placement services, shall be seventeen (17) years of age for training-based living arrangements and but not more than twenty-one (21) years of age for scattered site living arrangements;

~~254.43.c.~~ Written permission from the youth's his or her parents or guardian for a youth child less than eighteen (18) years of age to enter a transitional living scattered site setting transitional living arrangement;

254.43.d. A written service agreement with a youth child or young adult entering a transitional living scattered site setting ~~transitional living arrangement~~, and an alternate placement plan for a youth child or young adult who is unsuccessful in an independent a transitional living scattered site setting ~~living arrangement~~;

254.43.e. A determination by an agency that a youth child or young adult has shown that they are stable, mature and responsible enough for ~~lived in a stable placement for three (3) months immediately preceding consideration for entry into a transitional living arrangement~~ transitional living scattered site setting;

254.43.f. A written assessment by an agency of a youth's child's or young adult's life skills prior to placing him or her in a ~~transitional living arrangement~~ transitional living scattered site setting; and

254.43.g. ~~Attendance or completion of an educational or training program, and either employment or pursuance of employment by the child or young adult in transitional living.~~ The youth's plan for self-sufficiency, such as enrollment in an educational or trade program, employment or employment program.

254.54. An agency shall ~~develop,~~ assist the youth in the development of ~~approve and maintain in the case record~~ a monthly budget for ~~each child or young adult~~ that outlines income, savings, and expenditures.

254.65. The Department, agency staff and youth shall determine if a ~~approve any roommates roommate is appropriate for a youth child or young adult~~ prior to placement in a transitional living scattered site setting ~~transitional living settings~~. The roommate must be able to support themselves and contribute at least one-half of the living expenses for the transitional living scattered site setting.

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

254.87. An agency shall outline face-to-face contact and hours spent with a youth child or young adult in ~~transitional living setting~~ a transitional living scattered-site services in a section in the service/treatment plan that includes:

254.87.a. At least one ~~A range of two (2) to five (5)~~ face-to-face contacts in the youth's child's or young adult's residence per week unless additional visits are required by the service/treatment plan; and

254.87.b. At least one ~~A range of four (4) to six (6)~~ telephone contacts per week between a youth child or young adult and an assigned agency employee.

254.98. After a youth child or young adult is in a transitional living scatter-site ~~transitional living placement~~, an agency shall assess the youth's child's or young adult's progress in acquiring basic living skills at a minimum of once every six (6) months.

254.109. An agency shall develop and implement policies and procedures to ensure that any youth child or young adult in a transitional living scattered-site ~~transitional living~~ setting receives training and

guidance on appropriate health screening and services, including medical and dental screening and services.

~~254.1110.~~ An agency shall develop policies and ~~follow~~ procedures for assisting youth in the search for an appropriate the dwellings used for transitional living that will be used as a scattered-site living setting that includes the following provisions that ensure:

~~254.1110.a.~~ ~~That an agency assist a child or young adult to find a~~ A safe, affordable dwelling that is defined as a residential home, apartment or trailer;

~~254.1110.b.~~ ~~That a~~ The dwelling complies with the State Fire Code and applicable health, zoning and building codes;

~~254.1110.c.~~ ~~That a~~ The dwelling has a working telephone, or a way to communicate with others in an emergency situation, and indoor cooking and a water source for cooking, cleaning and bathing. facilities. In the event that the dwelling does not have a working telephone the agency shall ensure that the youth has a way to communicate with others in an emergency, such as a cell phone;

~~24.10.d.~~ ~~That a dwelling is recognizable as residential accommodations;~~

~~24.10.e.~~ ~~That a dwelling does 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 does not exceed two (2); and~~

~~24.10.f.~~ ~~That a child or young adult is not placed in a transient or overnight facility such as a rescue mission, motel, nonresidential hotel, emergency shelter, or tourist home.~~

~~254.1211.~~ An agency shall develop policies for assisting the youth in obtaining emergency services when needed and develop a plan with the youth that includes the following ensure the provision of emergency services to child or young adult while in transitional living that include:

~~254.1211.a.~~ A twenty four (24) hour a day, seven (7) day a week access to emergency services; A plan for the youth to follow when there is a need to make contact with a worker in emergency situations; and

~~254.1211.b.~~ A plan developed by the agency and youth for emergency medical care and emergency evacuation;

~~24.11.c.~~ ~~Training by the agency prior to or upon placement on how to use the agency's emergency telephone answering system; and~~

~~24.11.d.~~ ~~An agency employee designated to respond in person to the child or young adult within forty five (45) minutes of the child's or young adult's call for assistance.~~

~~254.1312.~~ The agency will develop policies and protocols on how they will ~~planning team shall establish a minimum length of time to determine the youth's child's or young adult's level of successful functioning in the transitional living program~~ scattered-site living setting before he or she may be discharged.

~~254.1413. The agency will develop policies and protocols on planning team shall develop developing an aftercare plan plans for youth prior to discharge.~~

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

25.16. An agency shall provide employees and children or young adults placed in a scatted site setting or receiving transitioning services an opportunity to participate in the review or revision process of policies and protocols.

~~§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 implement eligibility criteria and policies defined by the Department for the community re-entry program that include:~~

~~———— 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. During placement in a re-entry setting, 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 a community re-entry program shall be involved in an educational or training program, life skills classes, counseling, and psychological evaluations;~~

~~———— 25.5.d. A scheduled plan for free time shall include, but is not limited to, community service, job~~

preparation, driver's 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 develop and implement policies to ensure that medical, dental and mental health services are provided to children and young adults in the community re-entry program as required by the Child's Case Plan and the Health Check Program, including health screening, preventive care and emergency medical services.~~

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~~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 of age.~~

~~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. Does 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, and safe and secure storage for medication and toxic substances.~~

~~25.12. An agency shall establish 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.

An agency shall develop and implement a written grievance procedure for children and foster, adoptive, and biological families. The procedure shall be written in clear and simple language and shall include at least the following provisions:

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

26.2. The grievance procedure shall ensure due process; and

26.3. 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.

Any person aggrieved by an order or other action by the Secretary based on this rule, or W. Va. Code Chapter 49, Article 2, 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.