WEST VIRGINIA SECRETARY OF STATE
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Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Family Protection Services Board

RULE TYPE: Legislative TITLE-SERIES: 191-03

RULE NAME: Batterer Intervention and Prevention Programs Licensure Standards

CITE AUTHORITY: W. Va. Code § 48-26-403

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Daron A Light -- 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 191
LEGISLATIVE RULE
FAMILY PROTECTION SERVICES BOARD

SERIES 3
~~BATTERER INTERVENTION AND PREVENTION~~ ABUSE INTERVENTION PROGRAMS LICENSURE STANDARDS

§191-3-1. General.

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

1.2. Authority. -- W. Va. Code § 48-26-403

1.3. Filing date. -- ~~May 4, 2015~~.

1.4. Effective date. -- ~~May 5, 2015~~.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2032.

§191-3-2. Definitions.

2.1. "Board" means the Family Protection Services Board as continued in W.Va. Code §48-26-301.

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

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

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

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

2.6. "Participant" means an individual who has committed an act of domestic violence or abuse and has been admitted into an abuse intervention program in compliance with the requirements of subsection 3.5 or 4.3 of this rule.

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

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

~~3.1.a.~~3.1.1. ~~A batterer intervention and prevention~~ An abuse intervention program shall have a written statement of purpose identifying the types of programming and the individuals eligible to receive services. The statement of purpose shall be available to the public upon request.

~~3.1.b.~~3.1.2. The program shall have written policies regarding class fees and collection procedures.

~~3.1.c.~~3.1.3. The sponsoring agency of ~~a batterer intervention and prevention~~ an abuse intervention program shall provide for appropriate class meeting space.

~~3.1.d.~~3.1.4. ~~A batterer intervention and prevention~~ An abuse intervention program shall have a written description of its referral process, admission policies, exit interview process, and follow-up procedures.

~~3.1.e.~~3.1.5. ~~A batterer intervention and prevention~~ An abuse intervention program shall employ or contract with staff to cover the following areas: class facilitation; administration and supervision of the program; program direction to provide overall development; coordination of personnel; volunteer activities; case supervision; direct services; record keeping; and community education activities. Volunteers may also be used for class facilitation.

~~3.1.f.~~3.1.6. ~~A batterer intervention and prevention~~ An abuse intervention program shall make available and display the address and telephone number of the Domestic Violence Services Complaint Toll Free Number at all locations.

3.2. Program Oversight.

~~3.2.a.~~3.2.1. ~~A batterer intervention and prevention~~ An abuse intervention program shall be governed by a board of directors which shall be responsible for and have authority over the policies and activities of the program, and which is broadly representative of the community served.

~~3.2.b.~~3.2.2. ~~Batterer intervention and prevention~~ Abuse intervention programs governed by the community criminal justice boards shall provide proof of compliance with special conditions and assurances of Division of Justice and Community Services (DJCS) funding sources.

~~3.2.c.~~3.2.3. Non-profit agencies sponsoring ~~batterer intervention and prevention~~ abuse intervention programs shall have:

~~3.2.c.1.~~3.2.3.a. Articles of Incorporation;

~~3.2.c.2.~~3.2.3.b. 501c(3) Non-profit status;

~~3.2.c.3.~~3.2.3.c. A board of directors; and

~~3.2.c.4.~~3.2.3.d. Written by-laws.

~~3.2.d.~~3.2.4. The board of directors shall adopt, and review on a bi-annual basis, written by-laws and policies that define the powers and duties of the governing body, its committees, the executive director(s), and advisory group, where one exists. Copies of the articles of incorporation (if applicable) and the by-laws shall be maintained by the board of directors.

~~3.2.e.~~3.2.5. The board of directors is responsible for ensuring the program's continual compliance and conformity with terms and conditions of all funding sources.

~~3.2.f.~~3.2.6. The board of directors shall designate an individual or individuals to coordinate and manage the affairs of the ~~batterer intervention and prevention~~ abuse intervention program effectively and to submit a written programmatic and financial report at each board meeting.

~~3.2.g.~~3.2.7. Every member of the board of directors shall disclose in writing any financial transactions with the program in which any member of the board or her or his immediate family is involved.

~~3.2.h.~~3.2.8. The board of directors shall meet at a minimum on a quarterly basis and shall keep written minutes of all meetings, including attendance and whether or not a quorum was present.

~~3.2.i.~~3.2.9. The board of directors shall maintain a current listing of its members, including the name, the position, and the term of membership (if applicable) for each member.

~~3.2.j.~~3.2.10. The board of directors shall ensure that the program is adequately funded and fiscally sound. To this end, the board of directors is responsible for the following:

~~3.2.j.1.~~3.2.10.a. Reviewing and approving the program's annual budget;

~~3.2.j.2.~~3.2.10.b. Providing for an annual audit of all accounts by an independent certified public accountant who is neither an employee of the program nor a member of the board of directors;

~~3.2.j.3.~~3.2.10.c. Monitoring disbursement of all funds on a quarterly basis to assure that they are made in accordance with the program's objectives as specified by the board of directors; and

~~3.2.j.4.~~3.2.10.d. Assuring that the program maintains liability insurance for employees, volunteers, and members of the board of directors.

~~3.2.k.~~3.2.11. The ~~batterer intervention and prevention~~ abuse intervention program's board of directors shall adopt and monitor implementation of written personnel policies that shall, at a minimum:

~~3.2.k.1.~~3.2.11.a. Pertain to all paid and volunteer staff;

~~3.2.k.2.~~3.2.11.b. Specify actions that will be taken by the agency if the ~~batterer intervention and prevention~~ abuse intervention program personnel fails to comply with employee, contractor or volunteer policies, including written notification of the nature of misconduct or poor performance, the discipline being taken, the effective date of the discipline, future consequences for reoccurrence, and appeal rights. The policy shall allow the ~~batterer intervention and prevention~~ abuse intervention program personnel the opportunity to respond to the charges of misconduct or poor performance before a disciplinary decision is made.

~~3.2.k.3.~~3.2.11.c. Include written job descriptions and position qualifications for each position within the ~~batterer intervention and prevention~~ abuse intervention program; and

~~3.2.k.4.~~3.2.11.d. Set forth, in written form, rules of conduct for ~~batterer intervention and prevention~~ abuse intervention program personnel.

3.3. ~~Staff~~Facilitator Qualifications

~~3.3.a.~~3.3.1. Facilitators shall have a minimum of 30 hours of training approved by the Board, including, but not be limited to, the following:

~~3.3.a.1.~~3.3.1.a. The dynamics of domestic violence within the context of power and control;

~~3.3.a.2.~~3.3.1.b. The effects of domestic violence on victims and their children and the critical nature of victim contacts and safety planning;

~~3.3.a.3.~~3.3.1.c. The understanding that domestic violence is deeply rooted in historical attitudes toward women and other learned oppressive attitudes and behaviors.

~~3.3.a.4.~~3.3.1.d. The risks of homicide, suicide, further domestic violence or other violent aggressive behaviors and the access to or use of weapons.

~~3.3.a.5.~~3.3.1.e. Information on state and federal laws pertaining to domestic violence, including the policies affecting court-ordered program participants, orders of protection, child abuse, divorce and custody matters;

~~3.3.a.6.~~3.3.1.f. The role of the facilitator in the context of a coordinated community response to domestic violence;

~~3.3.a.7.~~3.3.1.g. Educating ~~batterers~~ participants on alternatives to violence and promoting healthy relationships based on equality and respect.

~~3.3.a.8.~~3.3.1.h. Dynamics involved in interpersonal relationships and knowledge of human behavior and development.

~~3.3.a.9.~~3.3.1.i. Understanding and preventing collusion.

~~3.3.a.10.~~3.3.1.j. Group process and facilitation skills training.

~~3.3.b.~~3.3.2. Facilitators shall have at a minimum a high school diploma or high school equivalency diploma.

~~3.3.c.~~3.3.3. Facilitators shall receive on an annual basis a minimum of three (3) hours of continuing education or training approved by the Board. The training shall include, but not be limited to, the following:

~~3.3.c.1.~~3.3.3.a. Domestic violence and substance abuse.

~~3.3.c.2.~~3.3.3.b. Domestic violence and the law.

~~3.3.c.3.~~3.3.3.c. Other issues which pertain to domestic violence.

~~3.3.c.4.~~3.3.3.d. Awareness and understanding of diversity and cultural differences.

~~3.3.c.5.~~3.3.3.e. Group process and facilitation skills training.

3.4. Quality assurance – Programs shall have a formal procedure to evaluate, on an annual basis, all persons providing services for the ~~batterer intervention and prevention~~ abuse intervention program.

3.5. Intake – Criteria concerning ~~a batterer's~~ an individual's appropriateness for the program.

~~3.5.a.~~3.5.1. ~~A batterer~~ An individual shall be admitted to ~~a batterer intervention and prevention~~ an abuse intervention program if ordered by a court or referred by a government agency to the program, and ~~is~~ if assessed by the program to be eligible for participation. Each program shall have the discretion to accept self-referrals. An assessment shall be performed to:

~~3.5.a.1.~~3.5.1.a. Identify individuals who would benefit from concurrent mental health or substance abuse treatment programs~~.~~;

~~3.5.a.2.~~3.5.1.b. Screen out those individuals from the program who have substance abuse problems or other impairments which make them unable to participate in the group intervention even with concurrent or preliminary treatment of those problems; and

~~3.5.a.3.~~3.5.1.c. Screen out those individuals from the program who may be dangerous or have severe mental illness and would not benefit from the program.

~~3.5.b.~~3.5.2. Upon admittance to ~~a batterer intervention and prevention~~ an abuse intervention program, the program facilitator shall complete a ~~batterer~~ participant intake form. The information shall be collected from the ~~batterer~~ participant and from independent sources that may include police reports and court records.

~~3.5.c.~~3.5.3. ~~A batterer intervention and prevention~~ An abuse intervention program shall have a contract outlining the responsibilities of the ~~batterer~~ participant and the facilitator. The terms of the contract will be agreed to and signed by the ~~batterer~~ participant and the authorized program representative.

~~3.5.d.~~3.5.4. The contract shall require completion of at least 32 sessions.

3.6. Contact with Victims.

~~3.6.a.~~3.6.1. Contact with victims shall come from a licensed domestic violence program and all information for contacting the victim shall remain with a licensed domestic violence program, unless expressly provided otherwise by agreement between the licensed ~~batterer intervention and prevention~~ abuse intervention program and the licensed domestic violence program as defined in the memorandum of understanding between the ~~batterer intervention and prevention~~ abuse intervention program and the licensed domestic violence program.

~~3.6.b.~~3.6.2. In the event the contact of the victim and/or partner is done by the ~~batterer intervention and prevention~~ abuse intervention program personnel, they shall provide written information to the licensed domestic violence program, including the date and contact information.

~~3.6.c.~~3.6.3. Victim and/or partner contact procedures may also include informing the ~~batterer's~~ participant's victim and/or partner of class commencement and termination dates, and a duty to warn the victim and/or partner of any imminent danger from the ~~batterer~~ participant. Victims and/or partners may also receive written materials about the ~~batterer's~~ abuse prevention class, detailing the limitations of the class's effectiveness, the fact that the class is not intended to salvage relationships, and the necessity for victims to maintain a safety plan.

3.7. Participant Records and Program Plans.

~~3.7.a.~~3.7.1. ~~A batterer intervention and prevention~~ An abuse intervention program shall maintain a written record for each individual who receives services from the program. The plan or contract shall be developed by program staff with the active participation of the participant and must be completed prior to the provision of services.

~~3.7.b.~~3.7.2. Individual participant records shall include service data from the time of initial contact until the time the program is concluded.

~~3.7.c.~~3.7.3. Individual participant case records maintained by ~~a batterer intervention and prevention~~ an abuse intervention program shall contain an application form, which includes identifying data, eligibility factors pursuant to section 3.5. of this rule, rights and responsibilities, participant signature and authorized staff signature.

~~3.7.d.~~3.7.4. ~~A batterer intervention and prevention~~ An abuse intervention program shall maintain, if possible, a copy of orders of protection issued against a ~~batterer~~ participant enrolled in the ~~batterer intervention and prevention~~ abuse intervention program.

3.8. Confidentiality

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

~~3.8.a.~~3.8.2. Nothing in these rules prohibits ~~a batterer intervention and prevention~~ an abuse intervention program from reporting suspected abuse or neglect, as defined by law, when the program is mandated by law to report suspected abuse or neglect. ~~A batterer intervention and prevention~~ An abuse intervention program shall not be responsible to maintain confidentiality about the ~~batterer~~ participant in any proceeding brought under W. Va. Code sections four and five, article six, chapter nine or article six, chapter forty-nine or as mandated by article six-a, chapter forty-nine and article six, chapter nine.

~~3.8.b.~~3.8.3. ~~Batterer intervention and prevention~~ Abuse intervention program participants shall authorize the release of information by signing the following releases:

~~3.8.b.1.~~3.8.3.a. Allowing the provider to inform the victim or alleged victim and the victim's advocates that the ~~batterer~~ participant is participating in ~~a batterer intervention and prevention~~ an abuse intervention program with the provider and to provide information to the victim or alleged victim and her or his advocates, if necessary, for the victim's or alleged victim's safety;

~~3.8.b.2.~~ 3.8.3.b. Allowing prior and current service providers to provide information about the ~~batterer~~ participant to the provider;

~~3.8.b.3.~~ 3.8.3.c. Allowing the provider, for good cause, to provide information about the ~~batterer~~ participant to relevant legal entities, including courts, parole officers, probation officers, child protective services, adult protective services, law enforcement, licensed domestic violence programs, or other referral agencies;

~~3.8.b.4.~~ 3.8.3.d. Allowing the provider to report to the court, if the participation was court ordered, and to the victim or alleged victim, if she or he requests and provides a method of notification, and to his or her advocate, any assault, failure to comply with program requirements, failure to attend the program, threat of harm by the ~~batterer~~ participant, reason for termination and recommendations for changes in the court order; and

~~3.8.b.5.~~ 3.8.3.e. Allowing the provider to report to the victim or alleged victim, or his or her advocate, without the participant's authorization, all perceived threats of harm, the participant's failure to attend and reason for termination.

~~3.8.b.6.~~ 3.8.3.f. The release of a victim's personally identifying information is subject to the provisions of 42 U.S.C. § 13925(b)(2).

3.9. Reports

The ~~batterer intervention and prevention~~ abuse intervention program shall provide a monthly reportto a licensed domestic violence program or programs. This report shall contain the ~~batterer's~~ participant's attendance record, compliance with program rules, and class completion or termination. If the ~~batterer's~~ participant's participation is court ordered, this report shall also be forwarded to all appropriate supervising entities. In the event that a referral is deemed ineligible for the ~~batterer intervention and prevention~~ abuse intervention program, the referral source will be notified in writing of the reason for non-acceptance.

3.10. ~~Batterer Intervention and Prevention~~ Abuse Intervention Program Classes.

~~3.10.a.~~3.10.1. ~~A batterer intervention and prevention~~ An abuse intervention program class shall last for a period of at least ~~thirty-two in-person~~ 32 sessions with each session including at least ~~ninety~~ 90 minutes of instruction time and shall include, but not be limited to, the following topics:

~~3.10.a.1.~~ 3.10.1.a. A model that depicts an overall system of physical, sexual, and emotional abuse where the ~~batterer~~ participant uses methods and tactics to maintain power and control over a victim.

~~3.10.a.2.~~ 3.10.1.b. The nature and effects of domestic violence.

~~3.10.a.3.~~3.10.1.c. The work that is necessary to bring about changes in the attitudes and beliefs that promote domestic and family violence.

~~3.10.a.4.~~3.10.1.d. The necessity for the maintenance of non-abusive behavior which includes
learning non-violent conflict resolution, non-aggressive communication, and maintaining positive, healthy partnerships;

~~3.10.a.5.~~3.10.1.e. The importance of community services which allows ~~batterers~~ participants to give something of themselves back to the community and contribute to changing the climate that condones domestic and family violence;

~~3.10.a.6.~~3.10.1.f. Information about legal/social consequences of domestic violence.

3.10.2. An abuse intervention program shall offer in-person sessions at a physical facility and may also offer live, synchronous virtual classes.

~~3.10.b.~~3.10.3. The participant shall pay a fee for the ~~batterer intervention and prevention~~ abuse intervention program classes, unless waived by the program. The fee scale shall be determined by the ~~batterer intervention and prevention~~ abuse intervention program. The program may set a different fee schedule for participants who attend virtual sessions.

~~3.10.c.~~ 3.10.4. Facilitators of ~~batterer intervention and prevention~~ abuse intervention programs shall utilize a group education format with a staff ratio at a minimum of one (1) facilitator per twelve (12) ~~batterers~~ participants.

3.11. Interagency Cooperation.

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

~~3.11.a.~~3.11.1. Identification of liaison persons involved in the meeting to develop the memorandum of understanding;

~~3.11.b.~~3.11.2. Description of the formal process for exchanging information between agencies including safeguards for protecting victim safety and methods for victim contact;

~~3.11.c.~~3.11.3. Description of the ~~batterer intervention and prevention~~ abuse intervention program's process of submitting monthly reports to the licensed domestic violence program;

~~3.11.d.~~3.11.4. Description of coordination, if any, of program plans;

~~3.11.e.~~3.11.5. Description of the process and timetables for the annual ~~batterer intervention and prevention~~ abuse intervention program evaluation;

~~3.11.f.~~3.11.6. Procedures for amending and or evaluating the memorandum of understanding annually with procedures for documentation of the date of this review.

3.12. ~~Batterer's Intervention and Prevention~~ Abuse Intervention Program Annual Data.

By September 30 of each year, ~~a batterer intervention and prevention~~ an abuse intervention program shall complete and submit data to the Board, to include but not be limited to the following data for the most recent fiscal year:

~~3.12.a.~~3.12.1. Attendance records of ~~batterer~~ participant(s) including reason(s) for repeated absences and average class attendance;

~~3.12.b.~~ 3.12.2. Number of individuals enrolled, which shall include:

3.12.2.a. Total number of enrollees;

3.12.2.b. ~~number~~ Number of enrollees who were court ordered to participate; and

3.12.2.c. Number of enrollees who attended the virtual program; ~~and~~

3.12.3. Total number ~~completing~~ of enrollees who successfully completed the program, which number shall also be broken down by in-person attendees and virtual attendees;

~~3.12.c.~~ 3.12.4. Number of attendees who did not successfully complete the class, and the reason for termination ~~without class completion~~ or failure to complete;

~~3.12.d.~~ 3.12.5. Demographic information for each participant;

~~3.12.e.~~ 3.12.6. Types of referral sources;

~~3.12.f.~~ 3.12.7. Counties served and location of class sites;

~~3.12.g.~~ 3.12.8. Number of ~~batterer intervention and prevention~~ abuse intervention program classes provided;

~~3.12.h.~~ 3.12.9. Number of months in operation; and

~~3.12.i.~~ 3.12.10. Contact information for all ~~current~~ facilitators employed during the reporting period.

3.13. Americans with Disabilities Act Compliance.

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

§191-3-4. Virtual Abuse Intervention Programs.

4.1. General Program Standards and Requirements

4.1.1. Requirements for virtual sessions are identical to those for in-person sessions unless otherwise specified by this rule.

4.1.2. Abuse Intervention Programs shall adhere to all Family Protection Services Board standards, guidelines, and ethical codes of conduct.

4.1.3. Virtual classes shall be conducted exclusively in a synchronous format.

4.1.4. Facilitators shall conduct sessions from a secure, dedicated workspace. Facilitators are responsible for ensuring audio and visual confidentiality to prevent unauthorized disclosure of any confidential information discussed or shown during a virtual session.

4.1.5. Because the nature of virtual sessions vary from in-person sessions, an abuse intervention program may set its own standard for determining whether a participant has attended a virtual session, which may include not only that the participant is logged into the virtual session, but may set a minimum threshold to demonstrate that the participant was actively engaged. Any such standard must be in writing, and must be provided to any participant who attends by virtual sessions.

4.2. Technical and Security Requirements

4.2.1. Abuse intervention programs shall utilize communication platforms featuring end-to-end encryption for all video, audio, and chat data. Abuse intervention programs shall not permit recording or interception of a virtual session by a participant.

4.2.2. Abuse intervention programs shall implement the highest available security settings, including mandatory session passwords and private virtual waiting rooms.

4.2.3. Facilitators shall maintain and ensure proper functionality of all necessary hardware and equipment to administer virtual classes and possess the technical expertise to operate the platform effectively.

4.2.4. Abuse intervention programs shall maintain updated operating systems, enforce strong password management protocols, and implement system backup procedures including emergency connectivity protocols for technical failures.

4.3. Participant Eligibility

4.3.1. An abuse intervention program participant is eligible to attend virtual classes if he or she meets at least one of the following criteria:

4.3.1.a. The participant has a physical disability affecting mobility, or a cognitive impairment that impacts participation in a traditional group setting, and the abuse intervention program determines that virtual attendance is an appropriate accommodation;

4.3.1.b. The participant habitually lacks reliable transportation;

4.3.1.c. The participant resides in an underserved county that has no licensed abuse intervention programs, or the licensed abuse intervention program in the participant's county of residence has reached its maximum participation number;

4.3.1.d. The participant has a primary language other than English and no licensed abuse intervention program within their county of residence offers classes in the participant's primary language;

4.3.1.e. The participant is unable to attend in-person sessions because of a work schedule or work commute, or a conflict with a court-ordered service or activity, including, but not limited to, supervised child visits, mental health counseling, or substance abuse treatment;

4.3.1.f. The participant belongs to a low-volume referral group with shared characteristics that is not sufficient in number to support a standalone in-person class;

4.3.1.g. There are two prospective participants who are unable to attend the same in-person class because doing so would jeopardize the health, safety, or likelihood of success of either participant, and separating the participants by placing one in the virtual session is the most reasonable alternative;

4.3.1.h. A circuit court, family court, or magistrate which has ordered the participant to complete an abuse intervention program has explicitly set forth in its order that the participation should be allowed to attend virtual sessions; or

4.3.1.i. Following its intake assessment, the abuse intervention program determines that virtual attendance is appropriate for the participant, for any cognizable ground, which must be set forth in writing.

4.3.2. Except when eligibility is based on a court order, the abuse intervention program may require any participant seeking virtual attendance to provide written verification of the participant's purported grounds for eligibility. Each abuse intervention program shall have discretion to determine when to require verification, and what form of verification is sufficient.

4.3.3. Even if a participant is eligible for virtual sessions, as allowed in this section, a participant may be prohibited from attending virtually or denied admission into a virtual program if:

4.3.3.a. The participant is attending the abuse intervention program by virtue of a court order or criminal bond conditions, and the order or bond explicitly sets forth that virtual sessions are inadequate or prohibited under the terms thereof;

4.3.3.b. The participant is on community corrections, and the participant's probation officer, home confinement officer, or other supervising officer affirmatively objects, in writing, to the participant attending virtually, and the court order does not explicitly authorize virtual attendance;

4.3.3.c. The participant is on an improvement period for a child abuse or neglect proceeding, and the Department of Human Services case worker or the multidisciplinary team affirmatively objects, in writing, to the participant attending virtually, and the court order does not explicitly authorize virtual attendance;

4.3.3.d. The abuse intervention program determines through any means, including the intake assessment, that the participant is not a good candidate for virtual attendance for any articulable reason, including, but not limited to, that virtual participation could present a risk to victim safety, the participant has already completed or failed the program, the participant is likely to take virtual sessions less seriously than if the participant appeared in person, or virtual attendance would otherwise impugn the integrity or efficacy of the virtual program; or

4.3.3.e. The participant lacks adequate equipment, does not have a private space in which to view and participate in virtual classes, or has insufficient technological capabilities to adequately participate in the classes and maintain confidentiality.

4.3.4. For each participant who is allowed to attend virtually, the abuse intervention program should make a written notation or finding which sets forth the basis for eligibility. For each participant who is eligible to attend virtually but who is denied virtual admission, the abuse intervention program

shall make a written notation or finding which sets forth the basis for eligibility and for denial. A written notation or finding may be brief and conclusory, so long as it sets forth the admission or denial of virtual attendance.

4.4. Removal from the Virtual Program

4.4.1. Virtual attendance is a privilege that an abuse intervention program may choose to extend to an eligible participant. A participant afforded an opportunity to engage in the virtual program is not entitled to remain in the virtual program.

4.4.2. An abuse intervention program shall revoke a participant's authorization to attend virtual classes if:

4.4.2.a. The participant compromises victim safety, or is inappropriate or volatile with other participants, and such is exacerbated or caused by the participant attending the abuse intervention program virtually; or

4.4.2.b. The participant no longer has adequate equipment, a private space in which to view and participate in virtual classes, or insufficient technological capabilities to adequately participate in the classes and maintain confidentiality; or

4.4.2.c. The abuse intervention program has credible grounds to believe that the participant has violated confidentiality, as required by this rule.

4.4.3. An abuse intervention program may revoke a participant's authorization to attend virtual classes if:

4.4.3.a. The participant violates his or her contract with the abuse intervention program, violates the participant conduct standards set forth in this rule, or fails to abide by any written guideline or standard for virtual attendance, when the participant is placed on advanced notice of the guideline or standard;

4.4.3.b. The participant is no longer eligible to attend virtual sessions, and the abuse intervention program determines that the participant can be transitioned to live, in-person sessions without compromising the participant's progress;

4.4.3.c. The facilitator observes the participant to be under the influence of drugs or alcohol during a virtual session, any employee of the abuse intervention program observes signs or indicators that the participant is actively using drugs or alcohol even if not under the influence during a virtual session, or the abuse intervention program has been advised that the participant has failed one or more court-ordered drug screen;

4.4.3.d. The abuse intervention program determines that the participant demonstrates a lack of accountability, a lack of meaningful progress, or a lack of appropriate engagement in the program; or

4.4.3.e. The abuse intervention program determines that the continued admission of the participant in the virtual sessions negatively impacts other participants, or the integrity or efficacy of the virtual program.

4.4.4. An abuse intervention program offering virtual classes shall maintain written policies and procedures for transferring participants from or between virtual formats and in-person formats, and for transferring a participant to another licensed abuse intervention program.

4.5. Participant Conduct Standards

4.5.1. Participants in virtual sessions shall:

4.5.1.a. Abide by all abuse intervention program standards, including standards which apply to all program participants, and standards which apply only to virtual attendees;

4.5.1.b. Obtain prior approval from the abuse intervention program for virtual attendance;

4.5.1.c. Possess a functioning camera, microphone, and stable internet connection; and

4.5.1.d. Actively participate in the program.

4.5.2. In addition to the confidentiality requirements set forth in section 3 of this rule, participants of virtual sessions must enter into a written confidentiality agreement, which, at the very least, requires the participant to:

4.5.2.a. Participate in the virtual session in a safe, closed room, where the participant is the only occupant of the room at the time of the session;

4.5.2.b. Provide a 360-degree view of their room to the facilitator, upon request, to ensure privacy and confidentiality of all participants; and

4.5.2.c. Refrain, without exception, from recording or attempting to record the audio and/or visual of any virtual session, by any means, including through the technical program used to provide the virtual attendance, or by using any other device or technical program.

4.6. Other Provisions and Protections for a Virtual Program

4.6.1. Nothing contained in this rule shall be construed as requiring an abuse intervention program to offer virtual sessions, and no court may compel an abuse intervention program to offer virtual sessions. A court may not compel an abuse intervention program which offers virtual sessions to accept a specific participant in the virtual program, if the abuse intervention program has a lawful basis for denial or removal of the participant from the virtual program, or if the program does not have the capacity to accommodate the participant.

4.6.2. Each abuse intervention program shall set a maximum number of attendees for a virtual class. In setting the maximum number, an abuse intervention program should consider a class size which allows for active engagement by the participants.

4.6.2.a. If the abuse intervention program allows for a hybrid model of live and virtual participants, the maximum number of attendees for a virtual session shall be less than the maximum number of attendees for a solely virtual model.

4.6.2.b. If the number of participants requesting to attend virtual sessions exceeds the maximum number of allotted spaces, the abuse intervention program shall give first priority to eligible

requesting participants who reside in an underserved county that has no licensed abuse intervention program. The abuse intervention program should give next priority to eligible requesting participants who are able to verify that, but for virtual attendance, the participant is incapable of attending the abuse intervention program. Each abuse intervention program may set a written standard or criteria for addressing these circumstances.

4.6.2.c. An abuse intervention program may exceed the maximum number is allotted spaces, upon a finding by the abuse intervention program of extraordinary circumstances.

4.6.3. If the annual reports submitted by the abuse intervention program, as required by this rule, demonstrates that participants of virtual sessions are significantly less likely to successfully complete the program than participants of live, in-person sessions, then the abuse intervention program shall work with the Family Protection Services Board to identify any deficiencies in the virtual program, and to make appropriate changes to the guidelines or implementation of the virtual program.

4.6.4. An abuse intervention program offering virtual classes shall maintain, and provide to the Family Protection Services Board, a clear, written delineation of its catchment area and a description of all services offered by the program at the time of licensure and must provide an updated description of the same to the Family Protection Services Board annually.