

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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AUG 3 11 13 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Family Protection Services Board TITLE NUMBER: 191

CITE AUTHORITY § 40-2C-4(d) 48-2C-13

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Licensing Standards for Domestic Violence
Programs

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

\$7.80

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 31 1998

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Family Protection Services Board

1204 Kanawha Boulevard, East

Charleston, WV 25301

LEGISLATIVE RULE TITLE: Licensing Standards for Domestic Violence Programs

1. Authorizing statute(s) citation § 40-2C-4(d) 48-2C-13

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 30, 1998

b. What other notice, including advertising, did you give of the hearing?

Memos with copies of the proposed rules were mailed to all licensed
domestic violence programs in the state.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 31, 1998 at 5:00 p.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached x No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 3, 1998

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Tonia Thomas, Chair

1204 Kanawha Boulevard, East

Charleston, WV 25301

Telephone: 558-8814, Ex. 216

Fax: 558-0391

- g. **IF DIFFERENT FROM ITEM 'f',** please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

June 30, 1998 through July 31, 1998

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

August 3, 1998

d. Attach findings and determinations and reasons:

Attached

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensing Standards for Domestic Violence Programs

Type of Rule: Legislative Interpretive Procedural

Agency Family Protection Services Board

Address Contact Person: Tonia Thomas
1204 Kanawha Boulevard, East
Charleston, WV 25301
Telephone: 558-8814, ex. 216
Fax: 558-0391

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

Fiscal note not required.

3. Objectives of these rules:

To enforce domestic violence outreach program standards.

Rule Title: Licensing Standards for Domestic Violence Programs

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

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


N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: August 3, 1998

Signature of Agency Head or Authorized Representative



**Summary of Proposed Revisions
To
Legislative Rule Title 191
For Licensing Standards for Domestic Violence Programs**

There is only one amendment to this rule that is considered substantive by the Board. The amendment, page 17, would include licensing standards for domestic violence outreach programs.

Circumstances Which Require This Rule

As described in §48-2C-4 of the West Virginia Code, also known as the Domestic Violence Act, it is the one of the duties of the Family Protection Services board to develop and enforce domestic violence program standards. Currently, all licensed domestic violence programs in the state have outreach programs with no uniform standards regarding operation.

TITLE 191
LEGISLATIVE RULE
FAMILY PROTECTION SERVICES BOARD

FILED

AUG 3 11 14 AM '98

SERIES 1
OPERATION OF BOARD AND LICENSURE
AND FUNDING OF DOMESTIC VIOLENCE PROGRAMS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§191-1-1. General

1.1 Scope - This rule establishes the operating procedures of the Family Protection Services Board, the standards and procedures for the licensure of domestic violence programs and the procedures to allocate funding for such programs.

1.2. Authority - W. Va. Code §§48-2C-4(d), 48-2C-13.

1.3. Filing Date

1.4. Effective Date

2. Purposes of the Board

2.1. The purposes of the Board are to provide ongoing administration and allocation of the West Virginia Family Protection Funds; to establish and enforce a system of standards for the annual licensure of domestic violence programs, and perpetrator intervention programs; to research and study issues pertinent to programs for victims of domestic violence and report the results to the Governor and the Legislature.

2.2. The Board will operate according to the following:

2.3.

2.2.a. The board will meet at least three times each calendar year in the first, second and last quarters. The exact dates, locations and subjects of regular meetings will be established with sufficient lead time for public announcement of meetings. Special and emergency meetings may be called at the discretion of the chair as frequently as necessary to assure the integrity of the board's funding and licensure responsibilities. Emergency meetings may be called at the discretion of the chair when circumstances arise regarding licensure or the funding of a domestic violence program.

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

2.2.c. Meetings may be held with a quorum of three board members present.

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

2.2.e. Only the chair or the vice-chair may conduct meetings of the board.

2.2.f. The chair will have the following responsibilities and duties. (1) Call and conduct all meetings; (2) Plan agendas for meetings; (3) Speak as the official voice of the board with media, the W. Va. Legislature, the West Virginia Coalition Against Domestic Violence, the programs licensed and funded by the board, the Attorney General's Office, the general public, and with all organizations inquiring about licensure and funding; and (4) Supervise the duties of the staff of the board.

2.2.g. The vice-chair will assume any or all of the responsibilities and duties of the chair in the chair's absence.

2.2.h. The board shall hire staff to complete the board's work as necessary. Funds will be allocated for this purpose from the five percent (5%) of funds allowed by law for the cost of administering provisions of that article.

2.2.i. Expenses incurred by board members while pursuing the work of the board shall be reimbursed by the funds designated for administrative activities. Board members shall, at all times, comply with the most current State of West Virginia travel regulations. The board shall supply its members and staff with appropriate forms to request reimbursement. The ex-officio members of the board who serve by

virtue of their positions shall request reimbursement for expenses through their employing agency or appointing committee.

2.2.j. The board shall advise the Commissioner of the Department of Human Services on matters of concern relative to his or her responsibilities under West Virginia Code §48-2C-1 et seq. and the board shall delegate to the commissioner such powers and duties of the board as the board may deem appropriate to delegate, including, but not limited to, the authority to approve, disapprove, revoke or suspend licenses.

§191-1-3. Definitions

3.1. Board designates the Family Protection Services Board created pursuant to West Virginia Code §48-2C-3.

3.2. Commissioner designates the Commissioner of the Department of Human Services or any successor agency however so named.

3.3. Department designates the Department of Human Services or any successor agency however so named.

3.4. Family Protection Program or Program designates a locally controlled non-profit organization created primarily for the purpose of providing services, including residential shelters, to victims of domestic violence or abuse and their children. The term shelter designates a facility which was created to provide residential services, on a temporary basis, persons who are victims of domestic violence, abuse or rape as well as the children of such victims.

§191-1-4. Board Reports

4.1. The board shall study issues pertinent to family protection programs for domestic violence victims, and prepare reports to the governor and the Legislature regarding those issues.

4.2. All programs receiving funds from the board shall file a report annually by the thirty-first day of each October for the prior fiscal year. The report shall include statistics on the number of persons served, the relationship of the victim to the abuser, services provided to the abuser, the number of referrals made for medical, psychological, financial, educational, vocational, child care or legal services and the results of a independent CPA audit in accordance with OMB Circular A-133, Audits of Institutions of Higher Education and Other Non-Profit Institutions. The confidentiality of all persons served by shelters and programs reporting shall be protected by those programs reporting.

§191-1-5. Licensure

5.1. The board shall enforce a system of standards for the annual licensure for all programs in the state. The standards set forth in sections 5.6 and 5.7, of this rule shall apply to any locally controlled non-profit incorporated organization which is created for the purpose of receiving, on a temporary basis, persons who are victims of domestic violence, abuse or rape as well as the children of such victims or for the purpose of providing services to victims of domestic violence or abuse and their children.

5.2. Exceptions To Standards - These standards shall not apply to the following agencies and practitioners which shall not be funded by the Board:

5.2.a. Agencies which provide counseling, therapy and other social services to victims of domestic violence, but were not created or organized for the expressed purpose of serving such domestic violence victims.

5.2.b. Agencies which were created or organized for the expressed purpose of providing services to homeless individuals and families.

5.2.c. Local private practitioners who are providing services to victims of domestic violence within the scope of their professional license or by other professions certified as follows. This list includes, but is not limited to: 1) Social Workers certified under the West Virginia Social Work Licensure Law or by the National Academy of Social Workers; 2) marriage counselors or family therapists certified by the American Association for Marriage and Family Therapy; or 3) addiction counselors certified by the West Virginia Association of Alcohol and Drug Abuse Counselors, or 4) physicians and other health care practitioners.

5.3. Application for Licensure

5.3.a. The board shall supply a standard application form which shall be completed by any organization meeting the definition in section 6.3.a. of this rule. An organization must complete an application for licensure when it initially requests licensure or when it wishes to reopen after closure. After initial licensure of a program it will be evaluated as a part of the board's evaluation process on an annual basis.

5.3.b. The board shall provide an application for licensure as a domestic violence program to any locally controlled non-profit organization which was or is created for the purpose of receiving, on a temporary basis, persons who are victims of domestic violence, abuse or rape as well as the children of such victims or for the

purpose of providing services to victims of domestic violence or abuse and their children.

5.3.c. The board shall receive and consider all applications submitted for the development and licensure of a program. The board shall consider such applications in light of the need for services, the viability of the applicant to successfully operate a program, the applicant's ability to obtain adequate funding for the delivery of services, and the applicant's interest and ability to provide quality services.

5.3.d. The board shall renew the licenses of all programs in compliance with the licensing standards on an annual basis. Renewal application forms for licensure shall be distributed by the Board to licensed domestic violence programs in a timely manner no later than the first day of March preceding the beginning of the new fiscal year. Programs shall submit renewal applications to the Board no later than the fifteenth day of April. All licenses will have a term of one year commencing on the first day of July and terminating on the thirtieth day of June on the next year. The board shall grant or deny any license within forty-five (45) days of the receipt of an application. The board shall require all licensed programs to conspicuously display the license.

5.3.e. The board shall exercise its authority to enforce a system of standards for all programs in the state as defined in 3.4 of this rule. Any organization operating without a license as a program, shall be notified by the board, by certified letter, of its right to apply for licensure. The board shall retain the right to petition the court for an order that would prevent the operation of an organization which refuses to apply for licensure as specified under this rule and article 2-C of chapter 48 of the W. Va. Code.

5.4. Evaluation for Licensure

5.4.a. The board shall evaluate all programs operating in the state. The evaluation, a part of which will be a peer review, using the licensing standards found in section 5.6 of this rule, by another licensed program, will ensure the safety, well-being, and health of the clients and staff of all programs operating in the state. The evaluation system requires that all shelters and programs will complete a self-review utilizing the standards compliance checklist on an annual basis in preparation for an on-site review.

5.4.b. The board shall implement a process annually to assure an on-site review of the established standards found in sections 5.6. and 5.7. This standards compliance review will be completed utilizing the most current revision of the standards' checklist authorized by the board. The annual peer review will be scheduled by the board in order to allow for the board to consider the results prior to the expiration of the previous year's license.

5.4.c. Any areas of non-compliance on the part of the program being evaluated for licensure shall be reported on the licensing checklist by the peer reviewer. The board shall review each area of non-compliance and consider the relative risk of the non-compliance to the health, safety and well-being of individuals being served by the program and staff employed by the program.

5.5. Award of License

5.5.a. The board shall award a license annually to any organization which has appropriately applied for a license and been approved by the board as having complied with all established standards as stated in sections 5.6. and 5.7. of this rule. Compliance will be evaluated either by use of the standards by peer reviewers, by board members, by board staff, or a combination of these parties as specified by the board.

5.5.b. Waiver of Licensure. The board may grant a provisional license or grant a waiver of licensure if the board deems such waiver or provisional license is necessary for the good of victims who will be served by the program in question. All such waivers or provisional licenses shall be reviewed semi-annually.

5.5.c. Revocation or Suspension of License. The board may close any program which violates the standards established by this rule, subject to the requirements in this rule regarding public hearings. In an instance where there is an immediate threat to the health, well-being and safety of shelter residents, or an unplanned closure by the program's governing board, etc., the board shall place such residents in other shelters, or some other appropriate safe and secure place. As specified in West Virginia Code §48-2C-5, four members of the board must vote in the affirmative before a license is revoked or suspended. The board shall notify the program's governing board of a revocation or suspension of a license through a written notice. The notice will be hand-delivered either by a member of the board to the program's governing board or it will be mailed by certified mail. This notice shall include the announcement of a public hearing to be held within the confines of the municipality or county in which the program is located. The board will not provide funds to a program whose license has been revoked or suspended.

5.5.d Improvement Period. The board may also allow a program a period of improvement after the notice of the board's intent to revoke or suspend the license if the program expresses a sincere desire to come into compliance with standards and if the board finds re-licensure is a viable option. The board shall provide funds to a program which is operating under a period of improvement. Four members of the board must vote in the affirmative in order to re-license a program or to allow for a period of improvement.

5.5.e. Receivership of Program. The board may place a or program, which violates the standards established under this rule and which threatens the health, well being and safety of its clients, under receivership. The board may operate said program to preserve the services for said clients. The board shall have access to and may use all assets of the program. Notice of the intent of the board to place a program into receivership shall be made by certified mail or in person by a member of the board to the governing body of the program. The notice of intent shall contain a notification of a public hearing to be held within the confines of the municipality or county in which the program is located. Four members of the board must vote in the affirmative before a program is closed or placed in receivership.

5.5.f. The board shall provide for and hold a public hearing prior to the closure of a program through the revocation or suspension of the license or placing a program into receivership. The hearing shall be held within the confines of the municipality or county in which the program is located. Notice of the hearing time, date and location shall be provided to the governing body and/or legal counsel of the program at least thirty (30) days prior to the hearing date. The hearing shall be conducted by the board chair and she/he shall have full authority to call recesses, to remove persons exhibiting inappropriate behavior from the hearing and to call for an executive session of the board, if necessary. Four members of the board must be present to hear the violations and the shelter's/program's response.

5.5.g. Legal counsel may be retained by both the board and by the aggrieved program. A court recorder shall be retained to provide the board with a written record of the hearing. The hearing shall be held in a room or facility which can accommodate the general public. Notice of the hearing shall be given to the Secretary of State in compliance with W. Va. Code §6-9A. Local public notice shall also be given through a local newspaper's legal notice section at least ten days prior to the hearing date.

5.5.h. The chair shall open the hearing with a listing of the program's violations and areas of non-compliance with the standards set forth in this rule. The board shall then hear evidence provided by the governing body, or legal counsel, of the program which addresses each violation and/or area of standard non-compliance. The board chair, legal counsel and or members of the board, shall question the program in regards to each violation and/or area of non-compliance. The board shall have subpoena power and may request the presence and testimony or deposition of any individual which the board believes may have information relevant to the violations and areas of non-compliance currently alleged. Subpoenaed witnesses may be questioned by the board, the board's legal counsel, a designated member of the program's governing body and/or the program's legal counsel.

5.5.i. The board shall render its decision within thirty (30) calendar days of the public hearing. Notice of that decision will be supplied to the program and/or the program's legal counsel in writing delivered in person or by certified mail. If a program disagrees with the findings of the board, the program may appeal such ruling to the circuit court of Kanawha County or to the circuit court of the county where the program is located pursuant to the provisions of West Virginia Code § 29A-5-4.

5.6. Licensing Standards for Domestic Violence Programs: The term program is used to describe the overall agency providing services to domestic violence victims. The term shelter is used when standards apply to actual residential facility.

5.6.a. Programs shall be organized in such a manner as to assure private and confidential services to clients and to assure residents of shelters basic safety, safety from violence, and a healthy environment in which to temporarily live.

5.6.a.1. A program shall have a written statement of philosophy which maintains the rights of victims to make their own decisions, to retain the responsibility of their children, and to be free from violent behavior.

5.6.a.2. A program shall have, and enforce, a written policy that preserves the individual's right of confidentiality and complies with all federal and state privacy laws.

5.6.a.3. A shelter shall have posted current written evidence in a conspicuous and accessible place that it meets all state and local fire and health regulations.

5.6.a.4. A shelter shall have house rules against the possession and use of weapons, except in the case of law enforcement officers who are on the premises acting in their official capacity, violence and drug or alcohol use within the shelter. A notice shall be placed on all entry door stating that weapons are not prohibited on the premises. A copy of the house rules shall be supplied to and signed by residents to acknowledge agreement to adhere to the rules.

5.6.a.5. A shelter shall report all cases involving child abuse, child sexual abuse, and child abandonment to the local Department of Health and Human Services, Child Protective Unit or to the statewide abuse hotline.

5.6.a.6. Program staff shall have knowledge of the Prevention of Domestic Violence Law, West Virginia Code § 48-2A-1 et seq., and impart that information to those residents to whom it applies.

5.6.a.7. Shelter staff shall help resident adults understand that they are autonomous and will be free to make their own decisions as to their future course of action, and that they will remain responsible for their children while at the shelter. These policies should be included in the house rules.

5.6.a.8. Shelters shall, at a minimum, offer case management, advocacy, information and referral to other community resources and nutritious meals. Counseling may be provided within the shelter or arranged with other community agencies.

5.6.a.9. Individual shelters shall establish policies regarding acceptance into the shelter, length of stay, extended stay, and/or future re-entry based on the capabilities of the shelter and sensitivity to the needs of the resident.

5.6.b. A program shall have a governing body (board of directors) which is responsible for and has authority over the policies and activities of the program, and which is broadly representative of the community served.

5.6.b.1. The program board 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 and the by-laws shall be maintained by the program board.

5.6.c. A program shall have a written statement specifying its purposes, program orientation and describing both short and long term goals. The statement should identify the types of services provided and the persons to be served by the program. The statement of purpose shall be available to the public on request.

5.6.d. The program's board of directors shall be responsible for ensuring the program's continual compliance and conformity with the terms of all leases, contracts, or other legal agreements to which the program is a party.

5.6.d.1. A program shall ensure that all purchase of service agreements are in writing. Those agreements shall contain all terms and conditions required to define the persons to be served, the services to be provided, the procedures for payment and the payment plan.

5.6.d.2. A program shall have copies of all leases into which the agency has entered. These leases shall include the location of the property involved, the monthly or annual rent, the ownership of the property, the useable square footage and the term of the lease.

5.6.d.3. Board directors, members of the immediate family of directors, staff, and members of the immediate family of staff shall not have financial interest in any property rented by the program without a full disclosure of the nature and extent of the financial interest and identifying the party and/or parties having the interest.

5.6.d.4. The program's board of directors shall be responsible for ensuring a program's continual compliance and conformity with the provisions of the program's charter.

5.6.d.5. The program's board of directors shall be responsible for ensuring the program's compliance with all relevant laws, rules and regulations, whether federal, state, local or municipal, governing the operation of the program.

5.6.e.. The program's board of directors shall designate a person(s) to act as chief administrative officer(s) of the program and shall delegate authority to such person(s) to enable them to manage the affairs of the program effectively.

5.6.f. The program's board of directors shall ensure that the program is adequately funded and fiscally sound. To this end, the board shall be responsible for the following:

5.6.f.1. Assessing the adequacy of sufficient operating funds for at least six months, i.e., reserves, guarantee of loans or other funds and fees, and developing a fund-raising strategy when necessary.

5.6.f.2. The review and approval of the program's annual budget.

5.6.f.3. An annual audit of all accounts by an independent certified public accountant not in the employ of the program nor a member of the board.

5.6.f.4. Disbursement of all funds shall be made in accordance with the program objectives specified by the board.

5.6.f.5. A program shall maintain adequate liability insurance for volunteers and board members as necessary. Each program, at its own expense, shall provide a financial bond for all persons delegated the authority to sign checks or manage funds. The bond shall assure the full operation of a program for a period of thirty days should those persons mis-appropriate the program's funds or assets or engage in any illegal act which results in the loss of funds or assets.

5.6.g. The program's board of directors shall develop an affirmative action plan which shall include a statement of compliance with Title VI of the Civil

Rights Act and Section 504 of the Rehabilitation Act. The plan must include reference to referrals and services to clients as well as to employees.

5.6.h. The responsibilities of the board of directors shall be clearly defined.

5.6.i. The board of directors shall meet on a regular basis and have written minutes of all meetings, including committee meetings.

5.6.j. The board of directors shall maintain a current listing of its members. The listing shall include the name, the position, the term of membership (if applicable), and the term of office (if applicable).

5.6.k. A program shall not permit public funds to be paid or committed to be paid to any corporation, firm, association, or business in which any of the members of the board, the executive personnel, or members of the immediate families of members of the board or executive personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the program. The program shall have a written disclosure of any financial transaction with the program in which any member of the board or her or his immediate family is involved.

5.6.l. No employee, or member of the immediate family of an employee, of any public agency which regulates or purchases services from a program shall be a member of the board of the program.

5.6.m. A program shall carry adequate insurance covering fire and liability for persons in residence. In addition, the program shall have insurance which covers liability to third parties or persons in residence arising through the use of any vehicle, whether owned or not owned by the facility, used by any of the facility's staff or agents on program business.

5.6.n. A program shall maintain a written record for each person who receives services from the program. The record shall contain an application form, which includes identifying data, eligibility factors, rights and responsibilities, signature, and staff signature.

5.6.o. Individual client case records maintained by a program shall include administrative, service, and educational data from the time of admission until the time the services are terminated. They must also include a record of follow-up services which are provided to shelter residents.

5.6.p. Individual client case records shall include a service plan which has been developed specifically for the client. The service plan shall be developed with the active participation of the client and it must be completed prior to the beginning of the provision of services, except in crisis situations.

5.6.q. A program shall have a written description of its referral process, admission policies, exit interview, and follow-up procedures.

5.6.r. A service plan, or treatment plan shall be completed by qualified staff, for each client and maintained in each client case record. The service plan shall include the following:

5.6.r.1. Presenting problem or needs of the client shall be described in either her or his own terms or the diagnostic language of the staff.

5.6.r.2. Program and/or client objectives shall be written in operational terms with a reasonable and achievable timetable. They must be very concrete in order to provide a basis for evaluation.

5.6.r.3. Delivery of service shall be described by specifying the activity involved in the provision of service, e.g., individual counseling.

5.6.r.4. Update of service plan shall be completed in accordance with changes in the client's circumstances. All case activity shall relate directly to the service plan.

5.6.s. A program shall complete an annual evaluation which will include consideration of the following:

5.6.s.1. Frequency of and reasons for denial of services and/or eviction of residents.

5.6.s.2. Staff turnover rate.

5.6.s.3. General staff effectiveness in relation to stated goals and community needs.

5.6.s.4. Unduplicated number of individuals served.

5.6.s.5. Number and type of services provided.

5.6.s.6. Method of follow-up,

5.6.t. A program's board of directors shall adopt and implement written personnel policies which insure sufficient and qualified paid and volunteer staff.

5.6.t.1. A program's personnel policies shall pertain to all paid staff, volunteers and to all members of the board of directors.

5.6.t.2. A program's personnel policies shall include the extent of advertising and recruitment efforts, affirmative action consideration, selection procedures, orientation, on-going staff development and training, and termination of employment.

5.6.t.3. A program's personnel policies shall list, in definitive terms, all benefits that are available to staff, volunteers and board of directors members. They shall also specify eligibility for benefits, costs to staff (if any) for benefits, and any continuity after separation.

5.6.t.4. A program's personnel policies shall specify eligibility for vacation, personal leave and adjusted work week, including rates of earning, yearly carry-over and accumulation, approval procedures, and payment upon termination.

5.6.t.5. A program's employees shall be made aware of the employer's rules of conduct such as appropriate attire, work hours, confidentiality, insubordination, misuse of authority or equipment, absences without leave, falsification of records, etc.

5.6.t.6. A program's personnel policies shall include actions that will be taken by the agency if an employee fails to comply with employee guidelines. These policies shall include the following: 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. Policies shall also allow for the opportunity to respond to the charges of misconduct or poor performance before a disciplinary decision is made.

5.6.t.7. A program's written policies shall include the agency's procedures for employee grievances including grievable issues, steps of appeal, required time frames and who has the authority for resolution. The grievance procedure shall comply with the program's services contract with the Office of Social Services.

5.6.t.8. A program's personnel policies shall delineate the lines of authority within the agency. They shall also outline the authority of the supervisor(s) regarding personnel activities such as promotion, discipline, leave approval, performance evaluations, grievances, assignment of work and training.

5.6.t.9. A program's personnel policies shall assure that all staff, including administrative and supervisory staff, will receive performance evaluations at least on an annual basis. There shall be evidence that evaluations have been discussed with the staff person and that they have become a part of the staff person's permanent personnel record. Program policy shall provide that the staff person receives a written copy of the evaluation and signs the evaluation to demonstrate agreement or disagreement with the results of the evaluation. Policies shall assure that any written response from the staff person is included in the permanent personnel file.

5.6.t.10. A shelter shall have a written schedule that assures that the shelter is staffed in person either by a trained staff person or trained volunteer when a resident is in the facility.

5.6.t.11. A program's personnel policies shall include job descriptions and position qualifications for each position within the program.

5.6.t.12. If a program provides professional or therapeutic counseling, and/or professional social work, the personnel policies shall ensure that the individuals providing these services have appropriate credentials and are licensed when applicable.

5.6.t.13. A program must address all of the following functions in at least one job description within the agency policies. Administration and supervision of the program; program direction to provide overall development; coordination of personnel and facilities; volunteer activities; case supervision; direct resident services; case management; record keeping; and, community education activities.

5.6.u. A shelter is defined as a place where victims of family violence, their children and dependents can seek temporary and secure refuge twenty-four (24) hours a day, seven (7) days a week, three hundred and sixty-five (365) days a year.

5.6.u.1. A shelter shall meet the applicable federal, state and local fire, health, and safety standards, including, but not limited to:

5.6.u.2. Smoke detectors shall be located on each floor. Placement of these detectors must include the sleeping area(s), the kitchen and the furnace areas.

5.6.u.3. Shelters shall have a window or access to a fire escape from the sleeping areas.

5.6.u.4. At least one fire extinguisher shall be located on each floor of the shelter, specifically one located in the kitchen area.

5.6.u.5. Shelters shall have clear exits for escape in case of fire.

5.6.u.6. Shelters shall not use lead paint on the walls, floors, doors, furniture, cabinets, windows, stairs, and porches.

5.6.u.7. Dead bolts used on shelter doors shall not be double-keyed. It must be possible to release dead bolts from the inside without a key to allow for escape in case of fire.

5.6.u.8. Flammable, poisonous and caustic materials located in the shelter shall be stored separately, away from the reach of children.

5.6.u.9. Electrical outlets not in use shall contain childproof covers. Electrical cords and plugs shall be in good condition with no exposed or frayed wiring.

5.6.v. A shelter shall have arrangements for the provision of nutritional and adequate meals, adequate food storage, cooking facilities, refrigeration, utensils, and equipment.

5.6.w. A shelter shall have adequate dining areas which are clean and well ventilated.

5.6.x. A shelter shall have bathing, lavatory and toilet facilities available on the premises which allow for individual privacy. These facilities must be maintained in good operating condition and must be cleaned on a regular basis.

5.6.y. A shelter shall have sleeping beds available for each resident. Cribs or playpens shall be available for infants and toddlers.

5.6.z. A shelter shall provide centrally located secure storage with a double locking system for medications belonging to residents.

5.6.aa. A shelter shall provide residents access to telephone communications.

5.6.ab. A shelter shall provide that all external entrances or exits, including doors, windows, skylights, cells, etc., are securable.

5.6.ac. A shelter shall provide a comfortable environment in which to reside that includes heat, ventilation, and cleanliness. A shelter shall have enough heating equipment to be comfortably warm during the cold months and adequate ventilation during the warm months. Heaters and fireplaces with open flames shall not be used. Doors and windows which are open in warm weather shall have insect screening in good repair.

5.6.ad. A shelter shall have supplies for personal hygiene available for residents. This policy must be included in the intake form.

5.6.ae. A shelter shall provide a safe play space for children. Any playground equipment shall be located, installed and maintained in such a manner as to ensure the safety of children.

5.6.af. A shelter shall provide a space which is distinct from the living area to serve as an administrative office and a private counseling office.

5.6.ag. A shelter shall ensure that all structures and grounds of the facility are maintained in good repair and are free from reasonable danger to health and safety.

5.6.ah. A shelter shall provide non-combustible covered containers when garbage and rubbish is stored outside. Garbage shall be removed at least weekly.

5.7. A program must comply with the following standards when safe homes or commercial lodgings are used to house victims of domestic violence.

5.7.a. A program shall have a written process for the selection and continued evaluation of safe homes and commercial lodgings used to house victims..

5.7.b. Safe home providers shall have adequate and appropriate training.

5.7.c. Safe home providers shall be provided with a written statement of the rights and responsibilities of the provider and the resident placed in the home.

5.7.d. A safe home and a commercial lodging arrangement shall have sleeping privacy for guests and access to bathing and laundry facilities, food and telephone.

5.7.e. A program shall assure that residents of a safe home system or commercial lodging have equal access to all core services including daily contact by staff or trained volunteers.

5.8. A program must comply with the following standards when outreach offices are used to serve victims of domestic violence.

5.8.a. An outreach program shall be formally associated with a licensed domestic violence program.

5.8.b. An outreach program shall maintain individual client records.

5.8.c. Outreach program financial records shall be kept in compliance with accepted audit standards.

5.8.d. An outreach domestic violence program shall provide the following services:

5.8.d.1. Have an established number of hours for direct services and toll free telephone accessibility.

5.8.d.2. Have a physical presence in the designated county.

5.8.d.3. Provide legal advocacy.

5.8.d.4. Provide community education and prevention activities.

5.8.d.5. Provide information and referral.

5.8.d.6. Provide for safety planning.

5.8.d.7. Provide crisis counseling.

5.8.d.8. Provide sexual assault services unless already being provided by another local sexual assault program.

5.8.d.8. Have demonstrated community support.

5.8.d.9. Protect client confidentiality at all times.

5.8.e. Minimum staff requirements. Outreach staff shall attend a four week orientation/training provided by a licensed domestic violence program and attend at least one West Virginia Coalition Against Domestic Violence outreach meeting per year.

5.8.f. An outreach program shall provide a suitable space and adequate equipment.

§191-1-6. Funding of Family Protection Programs

6.1. Amount Awarded - The board shall award to programs, for each state fiscal year, ninety-five percent (95%) of the total funds collected and paid over during the fiscal year to the special revenue account established pursuant to West Virginia Code § 48-1-24. Any administrative funds not expended the previous year shall be carried over and allocated to programs the following fiscal year.

6.2. Application for Funds - The board shall accept applications for a grant of funds from any licensed family protection program. The application shall include, but not be limited to the following.

6.2.a. Evidence that the organization submitting the application is incorporated in West Virginia as a nonprofit corporation.

6.2.b. A list of the incorporators of the corporation and a list of the officers and the board of directors.

6.2.c. The proposed budget of the program for the following fiscal year.

6.2.d. A summary of the services proposed to be offered in the following fiscal year by the program.

6.2.e. An evaluation of local needs for a program.

6.2.f. An estimate of the number of people to be served by the program during the following fiscal year; and

6.2.g. Any other information the board may feel is necessary.

6.3. Program Criterion - In order for a family protection program to qualify to receive a grant of funds from the board, it must meet the following criteria.

6.3.a. Provide or propose to provide a facility which will serve as a temporary shelter to receive, care and provide services for persons who are victims of domestic violence or abuse and their children.

6.3.b. Be incorporated in the state of West Virginia as a nonprofit corporation.

6.3.c. Have a board of directors which represents a broad spectrum of the community to be served, including at least one person who is or has been a victim of domestic violence or abuse.

6.3.d. Receive at least fifty-five (55) percent of its funds from sources other than funds distributed under this rule. These sources may be public or private and may include contributions of goods or services.

6.3.e. Require persons employed by or volunteering services to the program to maintain the confidentiality of any information which may identify individuals served by it.

6.4. Program Restrictions - The board shall not fund a family protection program initially if it is shown to discriminate in its services on the basis of race, religion, age, sex, marital status, national origin or ancestry. If such discrimination occurs after initial funding, the program will not be refunded until the discrimination ceases.

6.4.a. The board shall not refund a program if its original application projected the provision of residential services and such services were not provided in the first months following the first disbursement of funds by the board. Provided that upon a subsequent showing that the funds were used in the manner proposed in the original application, the program is not barred from subsequent funding. A revision of the original application may be filed with the board when the program starts providing residential services.

6.5. Grant Award Criterion - The board shall make grant awards on the basis of the following criteria. The board must grant or deny an application within forty-five days of the receipt of the application.

6.5.a. Demonstration of local need for proposed services.

6.5.b. Merit of project as proposed.

6.5.c. Demonstration of local control of the program.

6.5.d. Administrative design and efficiency of the project.

6.6. Distribution of Funds - The board shall deliver funds to program within forty-five (45) days of the approval of a grant application. Within any fiscal year the board shall distribute fifty percent (50%) of the grant funds in equal portions to all licensed programs within the forty-five (45) day limit. The board shall also develop a formula for a second distribution of the remaining fifty percent (50%) of the funds it awards. Distribution of the second half of the funds shall occur by the fifteenth day of

January of the current fiscal year. The amount awarded to each program shall be based on an effort to distribute funds in a fair and equitable manner, by acknowledging the size and associated costs of the programs, rewarding programs for active and successful grant writing and fund raising work, and by implementing West Virginia Code §§48-2C-7 and 8. To determine the individual program award amounts of the second-half of the grant funds, the board shall award funds according to a formula determined periodically by the board which takes into account the current factors involved in funding services to victims of domestic violence. The board shall require and review monthly financial reports from each program to assure the proper expenditure of grant funds.

The attached support letter was the only comment received.



Clay — (304) 587-7243
Madison — (304) 369-4189

Resolve Family Abuse Program

1114 Quarrier Street
Charleston, WV 25301
(304) 340-3550

July 13, 1998

Tonia Thomas
Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301

Dear Tonia:

This is to confirm that I have read the proposed rules dealing with outreach standards and shared the proposed changes with our staff. I, and all staff members, support these changes in the licensing standards and see these as a way to assure quality in outreach programs.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary Jo Butler', written over a horizontal line.

Mary Jo Butler



ANALYSIS OF PROPOSED LEGISLATIVE RULES

Staff Counsel: Rita A. Pauley
Date: December 28, 1998
Agency: Family Protection Services Board
Subject: Licensing Standards for Domestic Violence Programs,
191CSR1

OFFICE OF LEGISLATIVE COUNSEL
SECRETARY OF STATE
JAN 5 9 59 AM '99

PERTINENT DATES

Filed for public comment: June 30, 1998
Public comment period ended: July 31, 1998
Filed following public comment period: August 3, 1998
Filed LRMRC: August 3, 1998
Filed as emergency: N/A

Fiscal Impact: None

ABSTRACT

This is a current legislative rule which provides the operating procedures for the Family Protection Services Board. It also provides the standards and procedures for licensure of domestic violence programs and the procedures for allocation of grants to domestic violence programs. Two substantive modifications have been requested by the Board. The first change adds perpetrator intervention programs to the Board's responsibilities. The second change adds a new subsection 5.8 which establishes the standards for operating an outreach program.

The proposed rule is a current rule. The following is a synopsis of the substantive changes proposed for the rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 is the definition section. It needs to be revised for proper format, clarity and to reflect changes in statutory

language. Definitions need to be added for "shelter" and "outreach program".

Sub-section 5.8 is new, it provides the requirements for outreach programs. Apparently, outreach programs are operated by licensed domestic violence programs in counties where no shelter or other licensed program exists. The outreach office provides legal advocacy, community education and prevention, referral services, safety planning, crisis and other types of counseling. Outreach staff must attend a 4 week orientation/training program and at least one West Virginia Coalition Against domestic Violence outreach meeting per year. The rule does not provide any guidance as to the course requirement for the training.

AUTHORITY

Statutory authority: W.Va. Code, §48-2c-4(d), which provides, in part, as follows:

48-2C-4. Duties of board.

It is the duty of the board to:

(d) Promulgate rules and regulations to implement the provisions of this article and any applicable federal guidelines;

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

Yes.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has suggested many technical modifications.
