

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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Oct 8 1 45 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Family Protection Services Board TITLE NUMBER: 191

CITE AUTHORITY WV Code 48-2C-1 through 48-2C-14

AMENDMENT TO AN EXISTING RULE: YES NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Operation of Family Protection Services Board and Licensure and Funding of Domestic Violence Programs.

THE ABOVE PROPOSED LEGISLATIVE RULE, 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.


Secretary Designee to the
Family Protection Services Board

8.60

FILED

TITLE 191
PROPOSED LEGISLATIVE RULES
FAMILY PROTECTION SERVICES BOARD

OCT 8 1 46 PM '93

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** - These legislative rules establish 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 48-1-24 and 48-2C-1 through 48-2C-14. Related - 29A-5-4, 59-2-1, 12-2-2, and 12-6-13.

1.3. **Filing Date** -

1.4. **Effective Date** -

191-1-2. Organization and Purposes of the Board

2.1. **Organization** - These rules will apply to the operations of the Family Protection Services Board, hereinafter referred to as the board. The board was created by the West Virginia Legislature in 1989 under West Virginia state code article 2C, chapter 48, known as the Domestic Violence Act of 1989. The board is to be composed of five persons, three of which are appointed by the Governor, with the advice and consent of the Senate. One such member shall be the director of a shelter. One member shall be a member of a major trade association which represents shelters across the state, and the third, a member of the public. The three governor appointees will serve staggered terms of three years. In

addition to these members, the Commissioner of the Department of Human Services, or his or her designee, and the chairperson of the Governor's Committee on Crime, Delinquency and Corrections will serve as voting members of the board.

The terms of the three members appointed by the governor shall be staggered terms of three years. In the case of the initial appointments, the director of the shelter shall serve a one-year term and the representative of the trade association shall serve a two-year term.

In the event that a member of the board shall cease to be qualified for appointment, then such appointment shall terminate.

2.2. Purposes of the Board

a) To provide ongoing administration and allocation of the West Virginia Family Protection Funds.

b) To establish and enforce a system of standards for the annual licensure of domestic violence shelters and programs.

c) To research and study issues pertinent to programs and shelters for victims of domestic violence and report the results to the Governor and the Legislature.

2.3. Operating Rules

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 shelter or program.

b) All meetings will be publicly announced in accordance with section 3, article 9A, chapter 6 of the W. Va. state code 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 article 9A, chapter 6 of the W. Va. state code, hold open meetings except in the case of the discussion of sensitive issues regarding the issuance, denial, suspension or revocation of a license when an executive session will be called. 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.

c) Meetings may be held with a simple majority of the board members present. The presence of three members will constitute a quorum. As specified in section 2, article 9A, chapter 6 of the W. Va. state code, a quorum is required in order to make a decision or to deliberate toward a decision on any matter.

d) Officers will include a chair and a vice-chair who will be selected on an annual basis. The selection process will be held

during the second quarter annually. Terms of office will begin on July 1 of each year and will end the following June 30. Selection shall be made by consensus of the constituent membership unless personal circumstances prevent participation.

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

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 shelters and programs licensed and funded by the board, the Attorney General's Office, the general public, and with all organizations inquiring about licensure and/or funding, and 4) Supervise the duties of the staff of the board.

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

h) The board will operate on a consensus decision making model which requires that all present board members must consent to a decision before it is adopted by the board. This model allows for any one board member to block a decision, for each member to have equal access to power, and allows for innovative and creative solutions to problems. The board shall make every effort to work through to a compromise position/decision if a member has blocked an initial proposal. The board, however, shall formally vote and record those results in the official minutes in any incidence when state code calls for a specific number of affirmative votes.

i) The board shall contract with the West Virginia Coalition Against Domestic Violence to manage and maintain all records including minutes of meetings, and to provide all staff work as deemed necessary by the board. Funds will be allocated for this purpose from the five percent (5%) of said funds allowed under section 41, article 2C, chapter 48 of the W. Va. state code for the cost of administering provisions of that article. The board shall enter into a contract on an annual basis to retain staff support.

j) Expenses incurred by board members while pursuing the work of the board shall be reimbursed by the funds designated by section 41, article 2C, chapter 48 of the W. Va. state code 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 state government position shall request reimbursement for expenses through the Department of Health and Human Resources and the Governor's Committee on Crime, Delinquency and Correction.

k) The board shall advise the commissioner on matters of concern relative to his or her responsibilities under article 2C, chapter 48 of the W. Va. state code 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** - the Family Protection Services Board created pursuant to section three, article 2C, chapter 48 of the W. Va. state code.

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

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

3.4. **Family Protection Program or Program** - a program offered by a locally controlled non-profit organization created primarily for the purpose of providing services to victims of domestic violence or abuse and their children.

3.5. **Shelter or Family Protection Shelter** - a locally controlled, non-profit shelter which was 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.

191-1-4. Board Reports

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

4.2. **Shelter/Program Reports To Board** - The board shall require that all shelters and 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 an independent audit. The confidentiality of all persons served by shelters and programs reporting shall be protected by those shelters and programs reporting. The board shall also require that each shelter/program file a monthly financial report and a monthly statistical report regarding numbers of clients served and characteristics of clients and services provided.

191-1-5. Licensure

5.1. **Standards** - The board shall establish and enforce a system of standards for the annual licensure for all shelters and programs in the state. These standards shall apply to any locally controlled non-profit incorporated organization which was/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 to any program offered by a locally controlled non-profit organization which was organized primarily 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;

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 victims.

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

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: 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.

5.3. Application for Licensure

5.3.1. The board shall develop a standard application form which shall be completed by any organization meeting the definition in section 6.3.1. of these rules and regulations. An organization must complete an application for licensure on a one-time basis, at the initial request for licensure, unless it ceases services and wishes to reopen at a later date, or if the board has revoked its license and it is again able to satisfactorily meet the standards for licensure. After initial licensure of a shelter/program it will be evaluated as a part of the board's evaluation process on an annual basis.

5.3.2. The board shall provide an application for licensure as

a domestic violence shelter/program to any locally controlled non-profit organization which was/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 to any program offered by a locally controlled non-profit entity which was organized primarily for the purpose of providing services to victims of domestic violence or abuse and their children.

5.3.3. The board shall receive and consider all applications submitted for the development and licensure of a shelter/program. The board shall consider such applications in light of the need for services, the viability of the applicant to successfully operate a shelter/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.

5.3.4. The board shall renew the licenses of all shelters/programs in compliance with the licensing standards on an annual basis. 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 shelters/programs to conspicuously display the license.

5.3.5. The board shall exercise its authority to enforce a system of standards for all shelters and programs in the state as defined above as a Family Protection Shelter or Family Protection

Program. Any organization operating without a license as a family protection shelter or 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 WV state code.

5.4. Evaluation for Licensure

5.4.1. The board shall establish and implement an evaluation system which will allow for a peer review that will ensure the safety, well-being, and health of the clients and staff of all shelters operating in the state. The evaluation system will require that all shelters/programs complete a self-review utilizing the standards checklist on an annual basis in preparation for an on-site peer review to be completed by another licensed shelter/program.

5.4.2. The board shall implement a process annually to assure an on-site review of the established standards by another licensed shelter/program. This standards compliance review will be completed utilizing the most current revision of the standards' checklist authorized by the board and filed under this legislative rule. 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.

5.4.3. Any areas of non-compliance on the part of the shelter/program being evaluated for licensure must be reported on

the 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 agency and staff employed by the agency.

5.5. Award of License

5.5.1. 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 section 5.6. of this rule. Compliance will be evaluated either by the peer review process or an evaluation by the board or both.

5.5.2. 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 shelter or program in question. All such waivers or provisional licenses shall be reviewed semi-annually.

5.5.3. Revocation or Suspension of License. The board may close any shelter/program which violates the standards established under article 2C of chapter 48 of the W. Va. state code and which threatens the health, well being and safety of its clients at any time, 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 clients, or an unplanned closure by the shelter/program's governing board, etc., the board shall establish and implement a plan to place such clients in other shelters, or some other appropriate safe and secure place. The

board shall make its intent to revoke or suspend a license through a written notice delivered either by a member of the board to the shelter/program's governing board or by certified mail to the shelter/program upon an affirmative vote by four members of the board. This notice shall include the notification of a public hearing to be held within the confines of the municipality or county in which the shelter is located. The board may also allow a shelter/program a period of improvement after the notice of the board's intent to revoke or suspend the license if shelter/program expresses a sincere desire to come into compliance with standards and if the board believes re-licensure is a viable option. The board will not provide funds to a shelter/program whose license has been revoked or suspended or which is operating under a period of improvement. Four members of the board must vote in the affirmative in order to re-license a shelter/program or to allow for a period of improvement.

5.5.4. Receivership of Shelter/Program. The board may place a shelter/program, which violates the standards established under article 2C of chapter 48 of the W. Va. state code and which threatens the health, well being and safety of its clients, under receivership and operate said shelter/program to preserve the services for said clients. The board shall have access to and may use all assets of the shelter/program. Notice of the intent of the board to place a shelter/program into receivership shall be made by certified mail or in person by a member of the board to the governing body of the shelter/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 shelter is located. Four members of the board must vote in the affirmative before a shelter is closed or placed in receivership.

5.5.5. Due Process. The board shall provide for and hold a public hearing prior to the closure of a shelter/program through the revocation or suspension of the license or placing a shelter/program into receivership. The hearing shall be held within the confines of the municipality or county in which the shelter/program is located. Notice of the hearing time, date and location shall be provided to the governing body and/or legal counsel of the shelter/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.

The hearing shall be conducted in such a manner as to assure the shelter/program a fair and just response to the violations alleged by the board. Legal counsel may be retained by both the board and by the aggrieved shelter/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

article 9A, chapter 6 of the W. Va. state code. Local public notice shall also be given through a local newspaper's legal notice section at least ten days prior to the hearing date.

The chair shall open the hearing with a listing of the shelter/program's violations and areas of non-compliance which have been determined by the board to threaten the health, well-being and safety of the shelter/program's clients. The board shall then hear evidence provided by the governing body, or legal counsel, of the shelter/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 shelter/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 shelter/program's governing body and/or the shelter/program's legal counsel.

The board shall render its decision within thirty (30) calendar days of the public hearing. Notice of that decision will be supplied to the shelter/program and/or the shelter/program's legal counsel in writing delivered in person or by certified mail. If a shelter/program disagrees with the findings of the board, the shelter/program may appeal such ruling to the circuit court of Kanawha County or to the circuit court of the county where the

shelter/program is located pursuant to the provisions of section 4, article 5, chapter 29A of the W. Va. state code.

5.6. Standards

5.6.1. Shelters shall be organized in such a manner as to assure basic safety, safety from violence, confidentiality and a healthy environment in which to temporarily live.

a) A shelter shall have a written statement of philosophy which maintains the rights of women to make their own decisions, to retain the responsibility of their children, and to be free of violent behavior.

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

c) A shelter shall have written evidence that it meets all state and local fire and health regulations.

d) A shelter shall have house rules against weapons, violence and drug or alcohol use within the shelter. A copy of the house rules shall be supplied to and signed by residents to acknowledge agreement to adherence to those rules.

e) A shelter shall report all cases involving child abuse, child sexual abuse, and child abandonment to the local Department of Health and Human Resources, Child Protective Unit or to the statewide abuse hotline.

f) Shelter staff shall have knowledge of the Prevention of Domestic Violence Law, (article 2A, chapter 48 of the W. Va. state

code) and impart that information to those residents to whom it applies.

g) 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.

h) Shelters shall, at a minimum, offer case management, advocacy, information and referral to other community resources and nutritious meals that meet United States Department of Agriculture standards. Counseling may be provided within the shelter or arranged with other community agencies.

i) 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.

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

a) The shelter 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 shelter board.

b) A shelter 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.

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

1) A shelter 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.

2) A shelter 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.

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 shelter without a full disclosure of the nature and extent of the financial interest and identifying the party and/or parties having the interest.

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

e) The shelter's board of directors shall be responsible for ensuring the shelter's compliance with all relevant laws and/or regulations, whether federal, state, local or municipal, governing the operation of the shelter.

f) The shelter's board of directors shall designate a person(s) to act as chief administrative officer(s) of the shelter and shall delegate authority to such person(s) as to manage the affairs of the shelter effectively.

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

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.

2) The review and approval of the shelter's annual budget.

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

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

5) A shelter shall maintain adequate bonding for staff,

volunteers and board members as necessary. All persons delegated the authority to sign checks or manage funds shall be bonded at the agency's expense.

h) The shelter'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 residents as well as to employees.

i) The responsibilities of the board of directors shall be clearly defined.

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

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

l) A shelter 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 shelter. The shelter shall have a written disclosure of any financial transaction with the shelter in which any member of the board or

her/his immediate family is involved.

m) No employee, or member of the immediate family of an employee, of any public agency which regulates or purchases services from a shelter shall be a member of the board of the shelter.

n) A shelter shall carry adequate insurance covering fire and liability for persons in residence. In addition, the shelter 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 shelter business.

o) A shelter shall maintain a written record for each person who receives services from the shelter. The record shall contain an application form, which includes identifying data, eligibility factors, rights and responsibilities, signature, disposition of decision, staff signature.

p) Individual case records maintained by a shelter shall include administrative, service, and educational data from the time of admission until the time the resident leaves the facility and when follow-up services are delivered for shelter residents and at the point of delivery of services for other individuals.

q) Individual 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 resident and it must be completed prior to the beginning of the provision of services, except in crisis situations.

r) A shelter shall have a written description of its referral process, admission policies, exit interview, and follow-up procedures.

s) A shelter shall complete a service plan, or treatment plan by qualified staff, for each resident and it must be filed in the resident case record. The service plan shall include the following:

- 1) Presenting Problem or needs of the resident shall be described in either her/his own terms or the diagnostic language of the staff.

- 2) Shelter and/or resident objectives shall be written in operational terms with a timetable and be very concrete so that they can provide a basis for evaluation.

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

- 4) Update of service plan shall be completed in accordance with changes in the resident's circumstances. All case activity shall relate directly to the service plan.

t) A shelter shall complete an annual evaluation which will include consideration of the following:

- 1) Frequency of and reasons for denial of services and/or eviction of residents.

- 2) Staff turnover rate.

- 3) General staff effectiveness in relation to stated goals and community needs.

- 4) Unduplicated number of individuals served.
- 5) Number and type of services provided.
- 6) Method of follow-up,

5.6.2. A shelter's board of directors shall adopt and implement written personnel policies which insure sufficient and qualified personnel, and which apply to both paid and volunteer staff.

a) A shelter's personnel policies shall pertain to all paid staff, volunteers and to all members of the board of directors.

b) A shelter'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.

c) A shelter's personnel policies shall list, in definitive terms, all benefits that are available to staff, volunteers and board of directors members. They also shall spell out eligibility for benefits, costs to staff (if any) for benefits, and any continuity after separation.

d) A shelter'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.

e) A shelter'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.

f) A shelter'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.

g) A shelter'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 of resolution.

h) A shelter'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 (promotion, discipline, leave approval, performance evaluations, grievance handling, assignment of work and training).

i) A shelter'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 permanent personnel record. Policies 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.

j) A shelter shall have a written schedule that assures that the shelter is covered either by a trained staff person or trained volunteer when a resident is in the facility.

k) A shelter's personnel policies shall include job descriptions and position qualifications for each position within the shelter. They shall also include descriptive titles, duties and functions.

l) If a shelter provides professional or therapeutic counseling, and/or professional social work, the personnel policies shall ensure that individuals have appropriate credentials and are licensed when applicable.

m) A shelter must address all of the following functions in at least one job description within the agency policies.

- 1) Administration and supervision of the program.
- 2) Program direction to provide overall development.
- 3) Coordination of personnel and facilities.
- 4) Volunteer activities.
- 5) Case supervision
- 6) Direct resident services
- 7) Case management
- 8) Record keeping
- 9) Community education activities

5.6.3. 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.

a) A shelter shall meet the applicable federal, state and local fire, health, and safety standards, including, but not limited to:

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

2) Shelters shall have a window or access to a fire escape from the sleeping areas.

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

4) Shelters shall have clear exits for escape in case of fire.

5) Shelters shall not use lead paint on the walls, floors, doors, furniture, cabinets, windows, stairs, and porches.

6) 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.

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

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

b) A shelter shall have arrangements for the provision of

nutritional and adequate meals which meet USDA standards, adequate food storage, cooking facilities, refrigeration, utensils, and equipment.

c) A shelter shall have adequate dining areas which are clean and well ventilated.

d) 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.

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

f) A shelter shall provide centrally located secure storage for medications belonging to residents.

g) A shelter shall provide residents access to telephone communications.

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

i) 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/or fireplaces with open flames shall not be used. Doors and windows which are open in warm weather shall have insect screening.

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

k) 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.

l) A shelter shall provide a space(s) which is/are distinct from the living area to serve as an administrative office and/or a private counseling office.

m) 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.

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

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

a) A shelter shall have a written process for the selection and continued evaluation of safe homes.

b) A shelter shall have adequate and appropriate training for the safe home providers.

c) A shelter shall have a written statement of the rights and responsibilities provided by the shelter program.

d) A shelter shall have sleeping privacy for guests and access to bathing and laundry facilities, food and telephone.

e) A shelter 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.

191-1-6. Funding of Family Protection Shelters and Programs

6.1. Amount Awarded - The board shall award to shelters and 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 section 24, article one of chapter 48 of the W. Va. state code.

6.2. Special Revenue Account - Funds in said special revenue account shall be accrued from deposits of a thirty dollar (\$30) fee collected by each clerk of the circuit court for the filing of a divorce action and a fifteen dollar (\$15) fee collected by each county clerk for the issuance of a marriage license. Such additional fees shall not be collected from persons complying with the provisions of section one, article two, chapter fifty-nine of the W. Va. state code pertaining to suits filed by poor persons.

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

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

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

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

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

e. An evaluation of local needs for a shelter or program.

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

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

6.4. **Shelter/Program Criterion** - In order for a family protection shelter or program to qualify to receive a grant of funds from the board, it must meet the following criteria.

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.

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

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.

d. Receive at least fifty-five (55) percent of its funds from sources other than funds distributed under section b4, article 2C, chapter 48 of the W. Va. state code. These sources may

be public or private and may include contributions of goods or services.

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

6.5. Shelter/Program Restrictions - The board shall not fund a family protection shelter or 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 shelter or program may not be refunded until the discrimination ceases.

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

6.6. Grant Award Criterion - The board shall make grant awards on the basis of the following criteria.

- a. Demonstration of local need for proposed services.
- b. Merit of project as proposed.
- c. Demonstration of local control of the shelter or program.
- d. Administrative design and efficiency of the project.

6.7. **Distribution of Funds** - The board shall deliver funds to shelters/programs 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 funds in equal portions to all licensed shelters/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. The second distribution shall take place at the beginning of the second half of the fiscal year. The amount awarded to each shelter/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 shelters/programs, rewarding shelters/programs for active and successful grant writing and fund raising work, and by implementing sections 7 and 8, article 2C, chapter 48 of the state code. To determine the individual shelter/program award amounts of the second-half of the fiscal year distribution the board shall divide the second-half total into two portions; one, a sixty-five percent (65%) portion, and second, a thirty-five percent (35%) portion. The sixty-five percent (65%) portion is then divided according to the percentage of each shelter/program's cash budget for the last fiscal year in comparison to the total cash budget for all shelters/programs. The thirty-five percent (35%) portion is divided according to the number of approved beds available in each shelter/program. Programs which do not have shelter beds will not receive an allocation for beds. The board shall require and review monthly

financial reports from each shelter/program to assure the proper expenditure of board funds.

191-1-7. Severability - The provisions of these rules are declared to be severable. If any provisions of these rules shall be held invalid, the remaining rules shall remain in effect.



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STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Gaston Caperton
Governor

Bureau of Human Resources, Office of Social Services
Building Six, Capitol Complex
Charleston, West Virginia 25305
(304) 558-7980 - FAX (304) 558-8800

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

October 7, 1993

The Honorable Ken Hechler
Secretary of State
Building 1, Suite 157-K
Capitol Complex
Charleston, WV 25305-0770

Dear Mr. Secretary:

The Family Protection Services Board's proposed Legislative Rule was reviewed by the Legislative Rule-Making Review Committee on September 28, 1993. At that meeting the Committee acted on the rule by requesting that technical modifications suggested by Associate Counsel, Marjorie Martorella, be made.

The Board has made those modifications with the assistance of the Associate Counsel. Attached you will find our "Notice of Rule Modification of a Proposed Rule" and the modified proposed rule which the Board is submitting to your Office in compliance with rule-making procedures. Six copies of the document package are also attached as required.

The Board has also, on this date, filed the required package with the Legislative Rule-Making Review Committee. If you have questions please contact me at 558-7980. Thank you for your assistance.

Sincerely,

K. Diane Crump
Secretary Designee
Family Protection Services Board

Enclosures (7)



WEST VIRGINIA LEGISLATURE
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
 Room M-152, State Capitol
 Charleston, West Virginia 25305
 (304) 340-3286

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OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE

Senator Joe Manchin III, Co-Chair
 Delegate Brian A. Gallagher, Co-Chair

Debra A. Graham, Counsel
 Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

September 28, 1993

TO: Ken Hechler, Secretary of State, State Register

TO: Ms. Kitty Atkins, Chair
 Family Protection Services Board
 c/o WV Coalition Against Domestic Violence
 P.O. Box 85
 Sutton, WV 26601

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Operation of the Family Protection Services Board
 and Licensure and Funding of Domestic Violence
 Program

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Diane Crump
 Diane Reese
 Sue Julian