

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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2010 MAR 18 PM 12:21

WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WVDHHR - Family Protection Services Board TITLE NUMBER: 191

RULE TYPE: ~~Emergency Rule~~ Legislative CITE AUTHORITY: WV Code 48-26-404(a)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 191-2

TITLE OF RULE BEING AMENDED: Family Protection Programs, Outreach Service and Shelter Licensure

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON April 19, 2010 AT noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Kathie D. King - WVDHHR

Bureau for Children and Families
350 Capitol Street, Room 617

Charleston, West Virginia 25301

Kathie.D.King@wv.gov

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Patsy A. Hardy
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

EMERGENCY RULE QUESTIONNAIRE

DATE: _____

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Health and Human Resources,
Bureau for Children and Families, 350 Capitol St., Charleston, WV 25301; Kathie King
(304) 558-8839 or William Jones (304) 558-3227

EMERGENCY RULE TITLE: Family Protection Programs, Outreach Service & Shelter Licensure

1. Date of filing _____

2. Statutory authority for promulgating emergency rule:

W. Va. Code 48-26-401(4)

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule? It amends current legislative rules

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

~~Circuit Court Judge James C. Stucky issued a judicial order holding that current~~
provisions of certain rules exceeded the expressed intent of the Legislature and that their
effect violated the First Amendment Rights of the Plaintiff and its members.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

~~N/A~~

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~Kanawha County Circuit Court Judge James C. Stucky issued a judicial order holding that the current provisions of certain rules exceeded the expressed intent of the~~

Legislature and that their effect violated the First Amendment Rights of the Plaintiff

and its members.

Brief Summary of the Proposed Emergency Rules

Legislative Rule §191-02, Family Protection Programs, Outreach Service and Shelter Licensure, is promulgated pursuant to §48-26-401(4) of the W. Va. Code. This rule establishes standards and procedures for the licensure of family protection programs in the state of West Virginia.

Statement of Circumstances Constituting an Emergency

Men and Women Against Discrimination (hereafter, MAWAD) filed an a civil action against the Family Protection Service Board (hereafter, FPSB) in Kanawha County Circuit Court seeking injunctive relief. MAWAD asserted that the FPSB exceeded its authority by promulgating certain legislative rules that exceeded and conflicted with the intent of the Legislature and that the application of the rules violated the First Amendment rights of MAWAD and its constituent members in their ability to advocate for gender-neutral domestic violence programs in the state of West Virginia.

On October 2, 2009, Judge James C. Stucky issued an order that held current provisions of certain rules exceeded the expressed intent of the Legislature and that the continued application of these rules had a real chilling effect on MAWAD and its constituent members' exercise of their First Amendment rights to advocate the gender-neutral nature of domestic violence programs. Hence, the Court held the rules to be null and void.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Family Protection Programs, Outreach Service and Shelter Licensure

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Health and Human Resources

Address: Bureau for Children and Families
350 Capitol Street, Room 730, Charleston, WV 25301

Phone Number: (304)558-3227 william.o.jones@wv.gov
(304)558-8839 Email: kathie.d.king@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The Department estimates there is to be no costs or revenues associated with these amendments.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: Family Protection Programs, Outreach Service and Shelter Licensure

Rule Title: Family Protection Programs, Outreach Service and Shelter Licensure

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

The Department estimates there to be no costs or revenues associated with these amendments.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The amended language is gender neutral and does not affect delivery of services.

Date: 3-17-10

Signature of Agency Head or Authorized Representative

Patsy A. Hardy

TITLE 191
LEGISLATIVE RULE
FAMILY PROTECTION SERVICES BOARD

FILED
2010 MAR 18 PM 12:21

SERIES 2
FAMILY PROTECTION PROGRAMS, OUTREACH SERVICE
AND SHELTER LICENSURE

OFFICE OF THE
SECRETARY OF STATE
WEST VIRGINIA

§191-2-1. General.

1.1. Scope -- This rule establishes general standards and procedures for the licensure of family protection programs as specified in W. Va. Code §48-26-401. The West Virginia Code is available in public libraries and on the Legislature's web page at <http://www.legis.state.wv.us/>.

1.2. Authority -- W. Va. Code §§48-26-401(4) and 48-26-402.

1.3. Filing Date -- June 23, 2003.

1.4. Effective Date -- August 11, 2003.

§191-2-2. Definitions

For purposes of these rules, the following definitions shall apply:

2.1. "Advocacy" means assisting victims of domestic and family violence in obtaining support and assistance in securing rights, remedies, and services from criminal justice and other public agencies. These services include but are not

limited to: filing temporary restraining orders, providing court accompaniment, assisting with financial, medical, and housing needs.

2.2. "Certified Domestic Violence Advocate" means an advocate employed by a licensed family protection program who has been approved by the Board of Directors of West Virginia Coalition Against Domestic Violence as meeting the eligibility standards outlined in the Coalition's Domestic Violence Advocate Certification Project met the eligibility standards and certification process adopted by the Family Protection Services Board

2.3. "Crisis Counseling" means supportive intervention services provided by licensed family protection programs and shelters. The services include but are not limited to assisting victims of domestic violence in identifying and assessing their situation and accessing resources for resolution.

2.4. "Direct Services" means acts of assistance provided directly to victims including but not limited to,

emergency shelter, crisis counseling, and safety planning.

2.5. "Safety Planning" means a process where victims of domestic violence are assisted in identifying specific actions that help them maximize their safety.

§191-2-3. Licensing Standards for Family Protection Programs.

3.1. Family protection program requirements:

3.1.a. A family protection program shall have a mission statement specifying its purposes and program orientation. The statement shall identify the types of services provided and the individuals to be served by the program. The mission statement shall be available to the public on request.

3.1.b. A family protection program shall have a written policy stating that victims have the right to make their own decisions, to retain the responsibility of their children, and to be free from violent behavior.

3.1.c. A family protection 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.

3.1.d. A family protection program shall

require that all cases involving child abuse, child sexual abuse, and child abandonment be reported to the local Department of Health and Human Services, Child Protective Services Unit or to the statewide abuse hotline.

3.1.e. Family protection program staff shall demonstrate knowledge of the Prevention of Domestic Violence Law, W. Va. Code §§48-26-101 et seq., and provide that information to those individuals to whom it applies.

3.1.f. A family protection program shall, at a minimum, provide the following services:

3.1.f.1. Case management;

3.1.f.2. Advocacy;

3.1.f.3. Information and referral to other community resources; and

3.1.f.4. Counseling, which may be provided within the program or arranged with other community agencies.

3.1.g. A family protection program shall ensure that all purchase of client service agreements are in writing. Those agreements shall contain all terms and conditions required to define the individuals to be served, the services to be provided,

the procedures for payment and the payment amount.

3.1.h. A family protection program shall maintain copies of all leases into which it has entered. These leases shall state the location of the property involved, the monthly or annual rent, and the ownership of the property, the useable square footage and the term of the lease.

3.1.i. A family protection program shall carry adequate fire and liability insurance covering any individuals in its residential facility. In addition, the family protection program shall have insurance which covers liability to third parties or individuals in residence arising from the use of any vehicle, whether owned or not owned by the facility, used by any of the program's staff or agents on program business.

3.1.j. A family protection program shall have a written description of its referral process, admission policies, exit interview process, and follow-up procedures for residential clients.

3.1.k. A family protection program shall employ staff or utilize volunteers to cover the following areas: 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.

3.1.l. A family protection program shall make available and display the address and telephone number of the Domestic Violence Services Complaint Toll Free Number at all locations.

3.2. Board of Directors.

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

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

3.2.c. The board of directors shall be responsible for ensuring the program's continual compliance and conformity with:

3 . 2 . c . 1 .
Provisions of the program's
charter;

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

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

3.2.d. The board of
directors will require the
program director to submit a
written programmatic and
financial report at each board
meeting.

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

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

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

quorum was present.

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

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

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

3 . 2 . j . 1 .
Assessing the adequacy of
operating funds for at least
six months into the future,
i.e., reserves, guarantee of
loans or other funds and fees,
and developing a fund-raising
strategy when necessary;

3 . 2 . j . 2 .
Reviewing and approving the
program's annual budget;

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

3 . 2 . j . 4 .
Monitoring disbursement of all

funds on a quarterly basis to assure that they are made in accordance with the program's objectives as specified by the board of directors;

3 . 2 . j . 5 .
Assuring that a program maintains liability insurance and bond for volunteers and members of the board of directors;

3 . 2 . j . 6 .
Providing, at its own expense, a financial bond for all individuals delegated the authority to sign checks or manage funds. The bond shall assure the full operation of the program for a period of thirty (30) days should those individuals misappropriate or mismanage the program's funds or assets or engage in any illegal act which results in the loss of funds or assets.

3 . 2 . j . 7 .
Assuring that the program requests and receives funding from public and multiple private sources, and that private funding constitutes a substantial portion of the budget.

3 . 2 . j . 8 .
Assuring community support for the program, as demonstrated by material contributions and other donations.

3.2.k. A family protection program's board of directors shall adopt and monitor implementation of written personnel policies that

shall, at a minimum:

3 . 2 . k . 1 .
Pertain to all paid staff;

3 . 2 . k . 2 .
Include requirements for recruitment efforts, equal employment opportunity, selection procedures, orientation, on-going staff development and training, and termination of employment;

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

3 . 2 . k . 4 .
Specify eligibility for vacation, personal leave and adjusted work week, yearly carry-over and accumulation, approval procedures, and payment upon termination.

3 . 2 . k . 5 .
Specify actions that will be taken by the agency if an employee fails to comply with employee policies, including written notification of the nature of misconduct or poor performance, the discipline being taken, the effective date of the discipline, future consequences for reoccurrence, and appeal rights. The policy shall allow the employee the opportunity to respond to the charges of misconduct or poor performance before a disciplinary decision is made;

3 . 2 . k . 6 .

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

3 . 2 . k . 7 .
Delineate the lines of authority within the agency, and outline the authority of the supervisor(s) regarding personnel activities such as promotion, discipline, leave approval, performance evaluations, grievances, assignment of work and training;

3 . 2 . k . 8 .
Include job descriptions and position qualifications for each position within the program;

3 . 2 . k . 9 .
Require that all staff, including administrative and supervisory staff, receive performance evaluations at least on an annual basis. The evaluations must be signed by both employee and supervisor;

3.2.k.10. Set forth, in written form, rules of conduct which include such topics as appropriate attire, work hours, confidentiality, insubordination, misuse of authority or equipment, absences without leave and falsification of records;

3 . 2 . k . 1 1 .
Require that individuals providing professional or therapeutic counseling, and/or

professional social work have appropriate credentials and are licensed when applicable; and

3 . 2 . k . 1 2 .
Assure that at least one-third of its direct service providers are certified by ~~the West Virginia Coalition Against Domestic Violence as Domestic Violence Advocates~~ as domestic violence advocates

3.3. Client Records and Service Plans

3.3.a. A family protection program shall maintain a written record for each individual who receives services from the program.

3.3.b. Individual client records shall include service data from the time of initial contact until the time services are concluded.

3.3.c. Individual client records shall include a service plan or contract which has been developed specifically for the client. The service plan or contract shall be developed by program staff with the active participation of the client and must be completed prior to the beginning of the provision of services, except in crisis situations.

3.3.d. Individual client records shall include a record of follow-up services, when permission to provide such services is granted in writing by the client.

3.3.e. For clients of residential services:

3.3.e.1. The individual client record shall contain an application form, which includes identifying data, eligibility factors, rights and responsibilities, a service plan, signature of individual receiving residential services, and staff signature;

3.3.e.2. The service plan or contract shall include the presenting problem(s) or need(s) of the client, goals to be achieved, and services to be accessed/provided to address the presenting problem(s). Each plan shall be specific to the needs/goals of each client, and shall reflect steps relevant to safely leaving, safely staying and/or safely living on one's own.

3.3.f. For clients of nonresidential services, case notes shall be used to describe delivery of service and justification of services received.

3.4. Family Protection Program Evaluations.

A family protection program shall complete an annual evaluation that will include the following:

3.4.a. An annual plan, approved by the board of directors, that includes program goals and measurable

objectives and a budget for the operating expenses that includes public and private revenues.

3.4.b. An annual report approved by the board of directors that includes an audited financial statement and an accounting of the program's progress toward the goals in the annual operating plan.

3.4.c. A report of the frequency of and reasons for denial of services and/or eviction of residents.

3.4.d. The number of individuals served.

3.4.e. The number and type of services provided.

3.4.f. An assessment of stability and quality of staff, as indicated by the staff turnover rate, the number of Certified Domestic Violence Advocates, and the proportion of Certified Domestic Violence Advocates to non-certified advocates.

3.4.g. A staff development plan and budget, and evidence of implementation of the plan.

§191-2-4. Additional Licensing Standards for Shelters.

In addition to complying with the family protection program standards in Section 3 of this rule, domestic violence shelters, at a minimum, shall comply with the following standards.

4.1. A shelter shall have written policies that prohibit 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 copy of the policies shall be supplied to and signed by residents to acknowledge agreement to adhere to the policies.

4.2. Shelter staff shall support the autonomy and ability of resident adults to make their own decisions as to their future course of action;

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

4.3.a. Smoke detectors on each floor, including in the sleeping area(s), the kitchen and the furnace areas;

4.3.b. A window or access to a fire escape from the sleeping areas;

4.3.c. At least one (1) fire extinguisher on each floor of the shelter and one located in the kitchen area;

4.3.d. Clear exits for escape in case of fire;

4.3.e. No lead paint on the walls, floors, doors, furniture, cabinets, windows,

stairs, or porches.

4.3.f. Dead bolts used on shelter doors which are not double-keyed; it must be possible to release dead bolts from the inside without a key to allow for escape in case of fire.

4.3.g. Separate storage, out of the reach of children, of flammable, poisonous and caustic materials located in the shelter.

4.3.h. Childproof covers in electrical outlets not in use.

4.3.i. Nutritional and adequate meals, adequate food storage, cooking facilities, refrigeration, utensils, and equipment.

4.3.j. Adequate dining areas which are clean and well ventilated.

4.3.k. 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.

4.3.l. Sleeping beds available for each resident. Cribs or playpens shall be available for infants and toddlers.

4.3.m. Centrally located secure storage with a double locking system for

medications belonging to residents.

4.3.n. Resident access to telephones.

4.3.o. Securable external entrances or exits, including doors, windows, and skylights.

4.4. A shelter shall post in a conspicuous and accessible place current certificates indicating the current compliance with that the facility meets all state and local fire and health requirements.

4.5. A shelter shall provide a clean and comfortable environment for residents. A shelter shall have enough heating equipment to be sufficiently 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.

4.6. A shelter shall have supplies for personal hygiene available for residents.

4.7. A shelter shall provide a safe play space for children. Any playground equipment shall be located, installed and maintained in a safe manner.

4.8. A shelter shall provide a space that is

distinct from the living area to serve as an administrative office and a private counseling office.

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

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

4.11. A shelter shall have a written process for obtaining alternative lodging to house victims of domestic violence and their children when the residential facility is filled to capacity or is unable to accommodate special needs populations. ~~including, but not limited to, victims who are elderly, have disabilities, or who are adult and adolescent males.~~

4.12. A shelter shall assure 24-hour coverage by a trained staff person or trained volunteer when a resident is in the facility.

§191-2-5. Licensing Standards for Family Protection Outreach Services.

A family protection program must comply with the following standards when outreach offices are used to

serve victims of domestic violence.

5.1. Outreach services shall be formally associated with a licensed family protection program. If not started by or legally a part of a licensed family protection program, a formal association with such a program shall be written in a memorandum of understanding. The memorandum of understanding shall include but not be limited to the following components: decision making; finances/contracts; services to be provided; lines of accountability; and personnel.

5.2. Outreach services shall be available during established office hours, and accessible at other times by a toll-free telephone number.

5.3. Outreach services shall be provided in an office in the county designated by the licensed family protection program that has suitable space and adequate equipment for the provision of direct services to victims of domestic violence and their children.

5.4. Outreach services shall be documented in individual client records.

5.5. Outreach services' financial records shall be kept by the licensed family protection program and in compliance with accepted audit standards.

5.6. Outreach services shall include, but not be limited to:

5.6.a. Legal advocacy;

5.6.b. Community education and prevention activities;

5.6.c. Information and referral;

5.6.d. Safety planning;

5.6.e. Crisis counseling.

5.6.f. Sexual assault services unless already being provided by a local sexual assault program.

5.6.g. Client confidentiality at all times.

5.7. Outreach services shall be supported by the community, as demonstrated by one or more of the following: donated goods; donated space; in-kind donations; cash; volunteers; etc.

5.8. Minimum staff requirements. Outreach staff shall attend a four-week orientation/training program provided by a licensed family protection program and attend at least two West Virginia Coalition Against Domestic Violence advocate certification trainings per year.

5.9. In cases where the

licensed family protection program contracts with another organization to provide outreach services, that organization shall maintain its own financial records and comply with all preceding standards except those contained in subsection 5 of this section.

§191-2-6. Funding of Family Protection Programs and Shelters.

6.1. Amount Awarded - The Board shall award to licensed family protection programs, and/or shelters, 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 W. Va. Code §48-2-604. 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. A copy of the Articles of Incorporation Certificate and a copy of the 501(c)(3) Internal Revenue Service Determination Letter.

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 family protection 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 family protection program.

6.2.e. An evaluation of the local need for a family protection program.

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

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

6.3. Criteria - In order for a family protection program to qualify to receive grant 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 individuals 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 individual 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. Restrictions

6.4.a. 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.b. The Board shall not refund a family protection program if its original application projected

the provision of residential services and such services were not provided in the first three months following the initial 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 need for proposed services.

6.5.b. Merit of project as proposed to include at minimum: adequate funding to support the program, geographic area(s) to be served, record of effective services and coordination with other programs.

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

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

6.5.e. Proposed goals and objectives.

6.6. Distribution of Funds - The Board shall deliver funds to each family protection 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 family protection 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 each fiscal year. The amount awarded to each family protection 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 W. Va. Code §§48-2C-6 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 by the Board which may include but not limited to: population, the number of beds, shelter nights, individuals served, diversification of funding and operational budgets. The Board shall identify and provide funding formula factors to family protection programs on or before January 15 each year.

The Board shall require and review monthly financial reports from each program to assure the proper expenditure of grant funds.

6.7. The following agencies and practitioners shall not be funded by the Board:

6.7.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.

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

6.7.c. Local private practitioners who are providing services to victims of domestic violence within the scope of their professional license or by other professions including but not limited to: 1) Social Workers certified under the West Virginia Social Work Licensure Law or by the National Association 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.