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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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SECRETARY OF STATE

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December 12, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Tonia Thomas
Family Protection Services
1204 Kanawha Boulevard
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Licensure of Domestic Violence and Perpetrator Intervention Programs, 191CSR2**

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
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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

DEC 01 10 07 AM '99

Staff Counsel: Rita A. Pauley
Date: November 30, 1999
Agency: Family Protection Services Board
Subject: Licensure of Domestic Violence and Perpetrator
Intervention Programs, 191 CSR 2

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PERTINENT DATES

Filed for public comment: June 30, 1999
Public comment period ended: August 1, 1999
Filed following public comment period: August 5, 1999
Filed LRMRC: August 5, 1999
Filed as emergency: September 20, 1999

Fiscal Impact: None

ABSTRACT

This proposed new rule revises the licensure requirements for domestic violence programs and establishes the licensure requirements for perpetrator intervention programs. The rule establishes the licensure standards and procedures for licensure of domestic violence and perpetrator intervention programs. It covers such things as how applications for licensure are evaluated; what standards must be met by each type of program; revocation and suspension of licenses and how programs are funded.

The proposed rule is new. The following is a section by section synopsis of the proposed 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. Significant definitions include: "Educator/Facilitator" which is a specially trained person who conducts classes for perpetrators of domestic violence. And "Power and Control" which is the primary cause of domestic violence.

Section 3 contains the general licensure provisions. All family protection programs and perpetrator intervention programs must be licensed by the Board. This section explains how to apply for a license, the time frames for acting on an application and how

the programs will be evaluated. If a program does not meet or continue to meet all licensure requirements the Board may allow an improvement period for the program to correct its deficiencies. However, should it become necessary the board may close a program, revoke or suspend its license or place it in receivership. Thirty days prior to taking any adverse action the Board must give written notice to the program's governing board, allow a response and conduct a public hearing.

Section 4 sets forth the licensing standards for family protection programs. The standards require written policies on such things as confidentiality; reporting child abuse and neglect; admission requirements; provision of services; record maintenance and staffing requirements. Each program is required to have a board of directors which is responsible for the program's operation including approving the program's budget; monitoring expenditures; making sure the program is properly insured and bonded and adoption and monitoring of personnel policies. Each program must complete an annual evaluation of its performance. The evaluation covers things such as why and how often are requests for services denied; staff turnover rate; number of individuals served; type of service provided and method of follow-up.

Section 5 provides additional standards that must be met by domestic violence shelters. These standards are related to the residential nature of the services provided. They include meeting fire and health requirements for smoke detectors; ingress and egress access; prohibition of lead paint; storage of flammable, poisonous and caustic material; general cleanliness and adequate bed and bathroom facilities.

Section 6 provides additional standards that must be met by outreach programs. Outreach programs must be associated with a licensed domestic violence program. Outreach programs must have an established number of office hours; a toll free number and suitable office space. The client records are to be maintained by the outreach program but the financial records are to be maintained by the family protection program. Outreach programs must provide the following services: legal advocacy, community education and prevention activities, information and referral, safety planning, crisis counseling and sexual assault services unless they are provided by another program. Outreach workers must attend a 4 week orientation/training program and thereafter at least 2 outreach meetings a year.

Section 7 provides the additional requirements for perpetrator intervention programs. Educators/facilitators must have a minimum of 40 hours of approved training. The training must include such topics as the dynamics of domestic violence; the effects of domestic violence; lethality assessment; law relating to domestic

violence; the role of the facilitator; non-controlling alternatives to violence; interpersonal relationships and human behavior and development. Educators/facilitators must also obtain a minimum of 4 hours of continuing education yearly. All training must be approved by the Family Protection Services Board.

Perpetrator programs are required to perform an initial assessment of perpetrators to determine their appropriateness of the program. The assessment is to screen out individuals who would not benefit from the program because of mental health or substance abuse problems or other impairments that make them unable to participate in the group intervention. It also screens out those who may be dangerous or have severe mental illness and would not benefit from the program.

The perpetrator and the program must enter into a contract which outlines the responsibilities of each. The program is not to contact victims without the approval of the family protection program. Victims are to be notified when the perpetrator begins and ends. Written materials about the class, its limitations, that it is not intended to salvage relationships and the need for safety plans. The program has a duty to warn victims of any imminent danger from the perpetrator.

Perpetrator intervention classes are for a 32 week period and cover a variety of topics such as the overall system of physical and sexual abuse which uses methods and tactics of power and control; the nature of domestic violence; the need for non-abusive behavior and the state and federal law regarding domestic violence. Upon completion of the class a report is sent to the referring entity. The perpetrator may be released from the program or required to repeat the class.

Each perpetrator program must conduct an annual self evaluation. The evaluation covers things such as frequency and reasons for low attendance; general staff effectiveness; number of individuals served and the number of classes provided.

Section 8 delineates the process for distribution of funds to family protection programs. The Board is required to distribute the funds within 45 days of the approval of a grant application. The Board must distribute the first 50% of the available grant funds to all licensed family protection programs By utilizing statutory criteria. The remaining 50% is distributed by the Board based on a combination of factors including population served; number of beds; diversification of funding and operational budgets.

AUTHORITY

Statutory authority: W.Va. Code, §48-2C-4, which provides, in part, as follows:

...(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?

No.

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 technical modifications.