

WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

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2004 AUG 27 P 5:01

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #3

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

AGENCY: WVDHHR Family Protection Services Bd. TITLE NUMBER: 191

CITE AUTHORITY: 48.26.104 48 26 404

AMENDMENT TO AN EXISTING RULE: YES NO

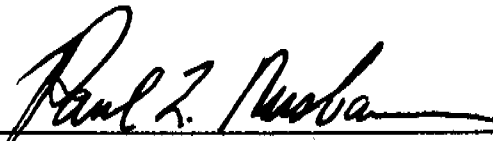
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 5

TITLE OF RULE BEING PROPOSED: Perpetrator Intervention Programs
License for Correctional Institutions

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


Authorized Signature

QUESTIONNAIRE

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

DATE: 8-27-04

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WVDHHR

Building 3
Charleston, WV 25312

LEGISLATIVE RULE TITLE: Perpetrator Intervention Programs Licensure
for Correctional Institutions

1. Authorizing statute(s) citation § 48-26-104 and § 48-26-404

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 25, 2004

b. What other notice, including advertising, did you give of the hearing?
None

c. Date of Public Hearing(s) or Public Comment Period ended:
August 27, 2004

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

Attached _____ No comments received

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

July 28, 2004

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

Emily Hopfa

WVDHHR

Building 3 Room 206

1900 Kanawha Blvd, E

Charleston, 25305

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

same

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

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

None

b. Date of hearing or comment period:

~~August~~ None

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

None

d. Attach findings and determinations and reasons:

Attached

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Perpetrator Intervention Program Licensure for Correctional Institutions, 191CSR5

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency: Department of Health & Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$0.00	\$0.00	\$0.00
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					
Revenue			\$0.00	\$0.00	\$0.00

2. Explanation of above estimates.

The Department, through the Family Protections Services Board, currently licenses private perpetrator intervention programs. This proposed rule would allow licensing of state correctional institutions and the Department estimates that any cost associated with this rule would be minimal and that existing funding sources could be utilized.

3. Objectives of this rule:

The proposed rule establishes general standards and procedures for the licensure of perpetrator intervention programs in correctional institutions. Correctional facilities provide these programs, but the current rules require additional procedures that are not applicable to a state agency (Division of Corrections). Implementation of this rule would result in uniform standards for all licensed domestic violence programs in West Virginia.

4. Explanation of Overall Economic Impact of Proposed Rule.

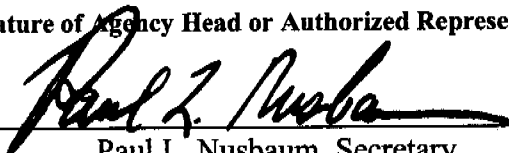
A. Economic Impact on State Government. None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens. None

C. Economic Impact on Citizens/Public at Large. None

Date: 8/27/04

Signature of Agency Head or Authorized Representative:



Paul L. Nusbaum, Secretary
Department of Health and Human Resources

Brief Summary of the Rule

191 CSR 5

Perpetrator Intervention Programs Licensure for Correctional Institutions

The proposed legislative rule is a new rule that establishes general standards and procedures for the licensure of perpetrator intervention programs in correctional institutions.

It establishes definitions, licensing standards, staff qualifications, program criteria, confidentiality, reporting requirements and licensure criteria.

FILED

TITLE 191
LEGISLATIVE RULE
FAMILY PROTECTION SERVICES BOARD

2004 AUG 27 P 5:01

SERIES 5
PERPETRATOR INTERVENTION PROGRAMS LICENSURE
FOR CORRECTIONAL INSTITUTIONS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§191- 5-1. General.

1.1. Scope -- This rule establishes general standards and procedures for the licensure of perpetrator intervention programs in correctional institutions as specified in W. Va. Code §§48-26-401 (a) and 48-26-404. The West Virginia Code is available in public libraries and on the Legislatures web page at <http://www.legis.state.wv.us/>.

1.2. Authority -- W. Va. Code §§48-26-401 and 48-26-404.

1.3. Filing Date -- July 1, 2004.

1.4. Effective Date -- _____

§191-5-2. Definitions.

2.1. Educator/Facilitator means an individual who meets the minimum requirements outlined in Section 3.3. of this rule and who directly facilitates regularly scheduled classes for perpetrators of domestic violence.

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

§191-5-3. Licensing Standards for Correctional Perpetrator Intervention Programs.

3.1. Correctional perpetrator intervention program requirements

3.1.a. A correctional perpetrator intervention program shall have a written statement of purpose. The statement shall identify the types of services provided and the individuals to be served. The statement of purpose shall be available to the public on request.

3.1.b A correctional perpetrator intervention program shall have a written description of its referral process, admission policies, exit interview process and follow-up procedures.

3.2 Implementation of correctional perpetrator intervention programs in one or more correctional facilities shall be directed by applicable Division of Corrections policy and/or procedure directive on each of the following issues:

- 3.2.a Personnel qualifications and evaluations
- 3.2.b Program implementation
- 3.2.c Quality assurance
- 3.2.d Ethics
- 3.2.e Grievance procedures
- 3.2.f. Confidentiality policies

3.3. Staff Qualifications

3.3.a. Educators/facilitators shall have a minimum of thirty hours of training approved by the Family Protection Services Board, including, but not be limited to, the following:

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

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

3.3.a.3. The understanding that domestic violence is deeply rooted in historical attitudes toward women and is intergenerational.

3.3.a.4. Lethality assessment for risks of homicide, suicide, further domestic violence or other violent aggressive behaviors and the access to or use of weapons.

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

3.3.a.6. The role of the facilitator within the group and in the context of a coordinated community response to domestic violence.

3.3.a.7. Teaching non-controlling alternatives to violent and controlling behaviors and understanding and

preventing collusion.

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

3.3.b. Educators/facilitators shall have at a minimum a high school diploma or general education degree.

3.3.c. Educators/facilitators shall receive on an annual basis a minimum of three hours of continuing education or training approved by the board. The training shall include, but not be limited to, the following:

3.3.c.1. Domestic violence and substance abuse

3.3.c.2. Domestic violence and the law

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

3.3.c.3. Cultural sensitivity

3.3.c.5. Group process and facilitation skills training.

3.4. Criteria concerning a perpetrators appropriateness for the program.

3.4.a. A perpetrator shall be admitted to a correctional perpetrator intervention program if ordered by a court or if that person voluntarily enrolls in the program and is assessed by the program to be eligible for participation in the program. An assessment shall be performed to:

3.4.a.1. Identify individuals who would benefit from concurrent mental health or substance abuse treatment programs.

3.4.a.2. Screen out individuals who have substance abuse problems or other impairments which make them unable to participate in the group intervention even with concurrent or preliminary treatment of those problems.

3.4.a.3. Screen out individuals from the program who may be dangerous or have severe mental illness and would not benefit from the program.

3.4.b. Upon an individuals admittance to a correctional perpetrator intervention program, the program educator/facilitator shall complete a perpetrator intake form. The information for the form shall be collected from the perpetrator and from independent sources such as, but not limited to, police reports and court records.

3.4.c. A correctional perpetrator intervention program shall have a contract outlining the responsibilities of the

perpetrator and the educator/facilitator. The terms of the contract shall be agreed to and signed by the perpetrator and the authorized program representative.

3.5. Educators/facilitators of licensed correctional perpetrator intervention programs shall consult with the Division of Corrections victim service manager for any issues involving potential victim contact. The Division of Corrections victim service manager shall be responsible for overseeing any victim contact that may be deemed appropriate.

3.6. Client Records and Service Plans

3.6.a. The service plan or contract shall be developed by Division of Corrections program staff with the active participation of the client and must be completed prior to the provision of services. A correctional perpetrator intervention program shall maintain the service plan or contract and a written record for each individual who receives services from the program.

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

3.6.c. Individual client case records maintained by a correctional perpetrator intervention program shall contain an application form, which includes identifying data, eligibility factors pursuant to section 3.4., rights and responsibilities, participant/client signature and authorized staff signature.

3.6.d. A correctional perpetrator intervention program shall maintain, if possible, a copy of protective orders issued against a perpetrator enrolled in the perpetrator intervention program.

3.7. Confidentiality

Every correctional perpetrator intervention program shall have a written policy regarding disclosure of information. There shall be a written agreement between the perpetrator and the program providing for disclosure of information to the victim and a waiver of confidentiality. The disclosure agreement shall be signed by the perpetrator.

3.8. Reports

The correctional perpetrator intervention program shall provide an annual report to all licensed family protection programs. This report shall contain information on victim services provided by the Division of Corrections, how victims can access services that are available through the Division of Corrections and how licensed family protection programs can gain access to directly relevant information regarding a specific

perpetrator.

3.9. Correctional Perpetrator Intervention Classes

3.9.a. A correctional perpetrator intervention class shall last for a period of at least thirty-two sessions and shall include, but not be limited to, the following topics:

3.9.a.1. A model that depicts an overall system of physical and sexual abuse where the perpetrator uses methods and tactics of power and control over a victim.

3.9.a.2. The nature and effects of domestic violence.

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

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

3.9.a.5. The importance of community services which allow perpetrators to give something of themselves back to the community and contribute to changing the climate that condones domestic and family violence.

3.9.a.6. Information about state and federal law and practice regarding domestic violence and legal/social consequences for perpetrators of domestic violence.

3.9.b. Educators/facilitators of perpetrator intervention programs shall utilize a group education format with a staff ratio at a minimum of one educator/facilitator per twelve perpetrators.

3.10. Correctional Perpetrator Intervention Program Evaluation

By October 31 of each year, a correctional perpetrator intervention program shall complete and submit to the Family Protection Services Board an annual evaluation for the preceding fiscal year. The evaluation shall include but not be limited to the following:

3.10.a. Attendance records of perpetrator(s) including reason(s) for repeated absences.

3.10.b. Number of individuals served.

3.10.c. Number of perpetrator intervention classes provided.

3.10.d. Number of perpetrators completing a class.

3.10.e. Sentencing county of each perpetrator served in the perpetrator intervention program.

§191-5-4. Licensure of Correctional Perpetrator Intervention Programs

All family protection, perpetrator intervention programs shall be licensed by the Family Protection Services Board to provide services to victims and/or perpetrators. The board shall enforce standards and establish a process for the annual licensure for all correctional perpetrator intervention programs in the state.

4.1. License Application

4.1.a. The board shall provide a standard license application to any correctional facility that wishes to establish a perpetrator intervention program upon request. The correctional facility must complete an application when it initially requests licensure or when it wishes to reopen after closure. After initial licensure, family protection and perpetrator intervention programs shall be evaluated by the board on an annual basis. An on-site review will be conducted every two years.

4.1.b. The Family Protection Services Board shall consider all applications submitted for licensure in light of the need for services, the ability of the applicant to successfully operate a perpetrator intervention program, the applicant's ability to obtain adequate funding for the delivery of services, the capacity of the program to comply with the boards standards and the applicant's interest and ability to provide quality services.

4.1.c. If the Family Protection Services Board finds that an application contains deficiencies, the application and a list of deficiencies will be returned to the applicant, and the applicant will have thirty days to resubmit a revised application.

4.1.d. The Family Protection Services Board shall renew, on an annual basis, the licenses of all correctional perpetrator intervention programs that are in compliance with this rule. Forms for license renewal shall be distributed by the board to the Division of Corrections in a timely manner no later than the fifteenth day of March each year.

4.1.e. The Family Protection Services Board shall, by certified letter, notify any organization operating without a license as perpetrator intervention program of its right to apply for licensure. The Board shall petition the circuit court for an order preventing the operation of any organization which refuses to obtain a license as required under this rule and W. Va. Code

§§48-26-101 et seq.

4.2. Issuance of A License

4.2.a. The Family Protection Services Board shall issue a license to any correctional facility which has applied for a license and been approved by the Board as having complied with all established standards set forth in this rule. Compliance with the standards shall be evaluated by a combination of individuals as determined by the board.

4.2.b. All licenses shall be valid for one year commencing on the first day of July and terminating on the thirtieth day of June of the next year. The Board shall grant or deny license within forty-five calendar days of receiving the license application. Every licensed perpetrator intervention program shall conspicuously display the license.

4.3. Evaluation for Licensure

4.3.a. The Family Protection Services Board shall annually evaluate all correctional perpetrator intervention programs operating in the state and will review all programs on-site a minimum of once every two years. The evaluation will be conducted using the licensing standards found in this rule.

4.3.b. The Family Protection Services Board shall annually assure an on-site review of the established standards found in this rule for at least one-half of all licensed programs. Review of the remaining programs shall be determined by the board. The standards compliance review will be completed utilizing the most current revision of the standards checklist authorized by the board. The annual evaluation will be scheduled in a timely manner by the board to allow the board to consider the results prior to the expiration of the current year's license.

4.3.c. Any areas of non-compliance shall be reported on the licensing checklist by the person(s) authorized by the Family Protection Services Board to conduct the review. The board shall review each area of non-compliance and consider the relative risk it poses to the health, safety and well-being of individuals being served by the perpetrator intervention program and staff employed by the program.

4.3.d. The Family Protection Services Board may contact the programs partner agencies to determine program effectiveness in relationship to community needs.

4.4. Waiver of Licensure.

If the Division of Corrections fails to meet the criteria for licensure, the board may grant a waiver of licensure to the Division of Corrections if the board finds it necessary for the good of victims or perpetrators who would be served by the perpetrator intervention program in question. The board shall

review all waivers semi-annually.

4.5. Issuance of a Provisional License.

4.5.a. The board may grant provisional licensure to the Division of Corrections if the board finds it necessary for the good of participants who will be served by the perpetrator intervention program. All provisional certifications shall be reviewed semi-annually.

4.5.b. Upon a finding by the board that a perpetrator intervention program is not in compliance with this rule, the board may issue a provisional license and shall give the perpetrator intervention program written notice of deficiency that shall include, but not be limited to the following:

4.5.b.1. A statement of program deficiencies.

4.5.b.2. A requirement to submit a plan of correction regarding the deficiencies.

4.5.b.3. A timeline for the Family Protection Services Boards review of the plan of correction.

4.5.b.4. A requirement that the plan be modified and resubmitted to the board within twenty days should the original plan not address the identified deficiencies.

4.5.b.5. A requirement that compliance occur within a time period set by the board.

4.5.b.6. Verification of the issuance of a provisional license until compliance is achieved or until the board takes action deemed necessary for the safety of the clients.

4.6. Revocation or Suspension of a License.

The board shall suspend or revoke a license and order closed any perpetrator intervention program that violates the standards established under this rule, subject to the requirements in this rule regarding public hearings under subdivision d of this subsection.

4.6.a. Four members of the board must vote in the affirmative before a license may be revoked or suspended.

4.6.b. The board shall send written notice of the license revocation or suspension by certified mail to the commissioner of the Division of Corrections. The notice shall include a statement of the programs alleged violations of this rule. The program will have fifteen days after receipt of the notice, to respond to the allegations. This response shall be in writing. If there is no written response, the board will proceed with the revocation or suspension of the programs license. The board will not provide funds to a perpetrator intervention program

whose license has been revoked or suspended.

4.6.c. If the board is provided with a response to the violations, a public hearing will be held within thirty days in the municipality or county in which the program is located.