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WEST VIRGINIA ADMINISTRATIVE REGULATIONS

DEPARTMENT OF MENTAL HEALTH

Chapter 27-1A

Series II

(1971)

Regulations for Licensing Psychiatric and Other
Related Facilities and Programs

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
DEPARTMENT OF MENTAL HEALTH

Chapter 27-1A
Series II
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Subject: Regulations for licensing psychiatric and
other related facilities and Programs

Section 1. General

1.01. Scope - These regulations establish the rules and standards for license to operate a hospital, center, or institution or part thereof, to provide inpatient, outpatient, or other services to contribute to the care and treatment of the mentally ill or mentally retarded, or prevention of such disorders.

Interpretation: Mental health services in West Virginia are rapidly expanding, with increasing legislative and local government support. With expanded services, efforts are under way to establish objective, attainable requirements for all levels of mental health program operation including establishment, community involvement, organization and administration, minimum staff qualifications, services according to the needs of the community, clinical records, administrative statistics, evaluation and environmental support.

While it is felt desirable to establish uniform, minimum



standards for operation and maintenance of mental health programs, it is also highly desirable to allow maximum flexibility so that each program can develop according to the unique needs of the community and the capabilities of its staff so long as they remain consistent with the Comprehensive Mental Health Plan for West Virginia, September, 1966, as modified by Program for the 70's. The delivery of mental health services to a population encompasses nearly as many variations as there are staff and recipients of service. These regulations, therefore, are designed to enhance, rather than to restrict the delivery of services to a population served by a mental health program; to provide source information to assist providers to reach and maintain the defined minimum standards for safe patient care required by local, state, and federal statutes for the welfare of the general public.

The Regulations herein are based on the belief that every patient has the inalienable right to receive treatment appropriate to his illness, under conditions that protect his privacy and dignity, and with essential humanity. Hence, each psychiatric or mental retardation facility applying for a license to operate in West Virginia must be measured against the following basic principles:

- (a) The mental health/mental retardation facility



acknowledges the dignity and protects the rights of all its patients.

(b) The ultimate goals of a mental health/mental retardation program and/or facility are to diagnose, to treat, and to restore mentally disordered persons to an optimal level of functioning at home and in the community.

(c) The mental health facility has an ethical staff meeting the ethical standards of their various respective professions.

(d) The mental health/mental retardation facility integrates its services with other community resources and is responsive to community needs.

(e) The mental health/mental retardation facility cooperates with standard setting and reimbursement requirements of various third-party payors in order to provide for its patients the economic protection of health insurance.

(f) The mental health/mental retardation facility keeps accurate, current, and complete clinic financial, personnel, and administrative records.

(g) The mental health/mental retardation facility has written policies, procedures, and plans.

(h) The physical plant of the mental health/mental retardation facility provides a safe, wholesome environment that enhances the program.



(i) The mental health/mental retardation facility is available, accessible, and appropriate for the care of all potential patients.

(j) The mental health/mental retardation facility promotes a climate that makes possible the establishment of significant relationships between staff, patients or students, and their families.

1.02. Authority --These revised regulations are issued under Chapter 27, Article 9, Section 1, Code of West Virginia, 1931, as amended.

1.03. Filing Date -- These regulations were filed in the Office of Secretary of State on the 11th day of August, 1971, and these revised regulations which supercede and replace all the regulations filed by the Department of Mental Health on the 11th day of August, 1971, were filed on the day of 1971.

1.04. Effective Date --These regulations, with revisions, which supercede and replace all the regulations filed on the 11th day of August, 1971, by the Department of Mental Health, were promulgated on the day of 19 , and became effective on the day of 19 .

1.05. Procedures Governing Adoption, Amendment and



Recision of These Regulations --The West Virginia Department of Mental Health shall have the power to make, enforce, modify, amend, or rescind rules and regulations governing the operation and conduct of psychiatric hospitals, centers, institutions, and other related facilities and/or services or parts thereof, specified in Chapter 27, Section 1, Article 9, Section 1, Code of West Virginia, 1931, as amended.

1.06. Regulations By Cross-Reference --The requirements within these regulations for specific facilities and programs to comply with other specific Federal, State, and local regulations and laws, including cross reference requirements within these regulations, does not exempt a facility or program from compliance with other Federal, State and local regulations and laws including all sections of these regulations, as revised, if the type and scope of the facility, or program, to be licensed, extends beyond specific references.

1.07. Information and Referral Service Required -- No facility or program providing any of the elements of care and treatment of the mentally ill/mentally retarded, or prevention of such disorders, shall operate without



properly implementing such services by providing, or establishing on a contractual basis, an effective-information and referral service, except hospitals which have established routes of communication throughout the catchment area they serve.



Section 2. License

2.01. Programs To Be Licensed --No hospital, center or institution, or part thereof, to provide inpatient, outpatient or other service designed to contribute to the care and treatment of mentally ill or mentally retarded, or prevention of such disorders, shall be established, maintained or operated by any political subdivision or by any person, persons, association or corporation unless a license therefor shall be first obtained from the Director of Mental Health in accordance with Chapter 27, Article 9, Section 1, Code of West Virginia, 1931, as amended.

2.02. Institutions and Services Exempted From These Regulations

(a) Hospitals operated by the Federal Government.

(b) Institutions licensed by the West Virginia Department of Welfare such as day nurseries, child care institutions and child care centers, except where primary care is for the mentally retarded or emotionally disturbed.

(c) Nursing and convalescent homes or institutions regularly licensed by the West Virginia Nursing Home Licensing Board, except those institutions having dual func-



tions one of which is clearly subject to licensure under these regulations.

(d) Special education classes for exceptional children, under the jurisdiction of County Boards of Education.

(e) First-Aid Stations and/or emergency care facilities not providing accommodations for hospitalizations such as emergency facilities of drug councils.

2.03. Application For License

2.03.1 Filing Application --Applicants for license shall file applications with the West Virginia Department of Mental Health upon forms prescribed by the Department requiring a statement of the goals and objectives of the proposed facility in addition to such other data requested by the Director.

2.03.2 Architectural Drawings Required --An accepted architectural standard drawing of plan of the facility, or the psychiatric unit of a facility, shall be attached to the license application and made a part of the permanent licensing record, and all subsequent changes, additions, or new construction shall be subject to the approval of the Director of the Department of Mental



Health.

2.03.3 Authority to Sign --Copy of Resolution of the governing body granting Authority to Sign authenticating the signature of the person signing application on behalf of applicant shall accompany each application, where applicable.

2.03.4 Letters of Reference --At least two letters of reference, from reputable citizens with whom applicant is personally acquainted and who certify to his character and qualifications, shall accompany each application for license of a mental health facility or service.

2.03.5 Articles of Incorporation --The Articles of Incorporation of a corporation owner of any mental health facility subject to these regulations shall be consistent and in compliance with these regulations.

2.03.6 Bed Capacity --Each application for license shall specify the maximum number of beds, if any, to be licensed by the Department of Mental Health as the institution's legal bed capacity, and shall indicate the utilization of beds to be licensed as to 24-hour inpatient, 24-hour partial hospitalization, residential, or a combination.



2.03.7 Name Of Facility, Or Program --Each applicant for psychiatric hospital, center, related institution, or related facility and/or service or part thereof, or program shall be specifically identified as such by an appropriate name which shall be used in applying for a license.

2.03.8 Change of Name

(a) The name of a mental health facility, or program, shall not be changed without the approval of the Department of Mental Health; except however, general hospitals providing psychiatric services shall notify the Department of Mental Health as soon as approval for Change of Name has been granted by the Department of Health.

(b) Change of name of a community mental health center, Health Education and Welfare Grantees, shall apply to the Regional Health Education and Welfare Office through the Department of Mental Health for authority to change name. The application for change shall include the following:

1. Current Name of community mental health Center;



2. Proposed name of community mental health center;
3. Reasons for change; and
4. A description of extent to which the community and the State and local mental health agencies have been involved in the proposal.

2.03.9 Change of Address --Immediate notice shall be given to the concerned State and local health agencies of any change of address, and such notice shall be made known throughout the catchment area it serves, including the effecting of changes in telephone and other directories.

2.03.10 Full Disclosure --There shall be full disclosure of the names and addresses of all owners, governing body members, or if a corporation, the names and addresses of all officers, directors, and persons who are principle stockholders, whether beneficial or of record.

2.04. Issuance of License Certificate

2.04.1 The license will be issued on a certificate prescribed by the Director of the West Virginia Department of Mental Health and shall set forth the name, lo-



cation, services to be rendered, and number of beds, if any, for which the psychiatric hospital, center, related institution, or other related facility and/or service, or part thereof, is licensed.

2.04.2 Two classes of licenses will be issued as follows:

CLASS I: Full approval of all services for which license is applied for shall be issued for a twelve month period.

CLASS II: Provisional approval contingent upon removal of deficiencies within one or more services for which license is applied for. Deficiencies shall be noted on the face of the license certificate for disclosure to patients, clients and/or students and their families.

2.04.3 License To Be Posted --The CLASS I and CLASS II license certificates shall be posted in a conspicuous place on the licensed premises.

2.04.4 License Non-Transferable --The license shall be non-transferable and non-assignable. The Department of Mental Health shall be immediately notified of any



change relative to the ownership, name, location or operation of the institution, and an application form for a new license shall be requested for filing with the Department.

2.05. Surveys For License Or Renewal Of License

2.05.1 Only Authorized Surveyors To Survey -- Only duly authorized representatives of the Department of Mental Health shall have the right to enter upon or into the premises of any hospital, center, institution, or other related facility and/or part thereof in order to survey all elements of operations in accordance with the licensing authority vested in the Department.

2.05.2 Survey Team Credentials --All surveyors of the survey team appointed by the Director of Mental Health shall carry official identifying credentials indicating his authority to make a qualitative survey of the facility.

2.05.3 Survey Team --Survey team for each region as defined in the West Virginia State Plans for Construction of Community Mental Health Centers and Mental Retardation Facilities shall be annually appointed by the Director of the Department of Mental Health in the



following manner:

1 Administrator, community mental health center,
or hospital;

1, or more if needed, Fire Inspector, State Fire
Marshall designee(s);

Mental Health Licensing Bureau, Director or designee

1 Psychiatrist;

1 Sanitarian, Local Department of Health designee;

1 Architect, as needed

1 Attorney, as needed

1 Auditor, as needed

Community Services Division, Associate Director, or
designee, as needed

1 Engineer, as needed

PROVIDED however, that no Surveyor shall partici-
pate in the survey of his own facility.

2.05.4 Report of Survey --Surveyors, prior to leav-
ing the premises after a survey, shall submit either an
oral, or written, report of his findings with the super-
intendent or executive officer, or their duly authorized
representative.

2.05.5 Survey Required Before License Issued

Surveys shall be made prior to the initial issuance of



a license, renewal of a license, or at any time during the licensing period in order to assure continuing conformity with the standards contained in these rules and regulations.

2.05.6 Non-Compliance Of Regulations --Non-compliance of a regulation, or regulations, noted by the surveyors may constitute sufficient cause for revocation of the license, at the discretion of the Director of the West Virginia Department of Mental Health.

2.05.7 Certification By State Fire Marshal To Be Posted --All mental health facilities required to be licensed under the provisions of these regulations shall comply with and conform to all rules and regulations which provide minimum standards for the prevention of fire and for the protection of life and property against loss or damage by fire or panic. A certificate of approval shall be obtained from the State Fire Marshal by any institution required to be licensed. Written approval of the institution shall be filed with the State Department of Mental Health and a copy of such certificate shall be posted in a conspicuous place on the premises of the licensee.



2.06. Expiration And Renewal Of License

2.06.1 Expiration Of License --All licenses issued by the Department of Mental Health shall expire on the thirty-first (31st) day of December following issuance provided that any such license in effect on the thirty-first (31st) day of December of any year, for which application for renewal has been made to the Department of Mental Health in conformance with these regulations and prior to the expiration date of such license, shall continue in effect until

- (a) the thirty-first (31st) day of December next following the expiration date of such license;
- (b) the date of revocation or suspension of such license; or
- (c) the date of issuance of a new license whichever date first occurs.

2.06.2 Renewal of License

(a) Applications for the renewal of licenses will be mailed to each, hospital, center, institution, related facility and/or service or part thereof before September 30th, which shall be completed and returned to the Department of Mental Health before the thirty-



first (31st) day of December every year following issuance of the license.

(b) The renewal of a license shall be contingent upon evidence of compliance with the licensing law and minimum standards and regulations herein set forth.

2.06.3 Notification of Non-Compliance --Each applicant will be duly notified, in writing, of any non-compliance and shall comply with the provision of the law, rules and regulations herein set forth before the reissuance of a CLASS I license to operate.

2.07 Revocation And Reissuance Of License

2.07.1 Right To Hearing Before Revocation --After an opportunity for a hearing before a multi-disciplinary committee, the Department of Mental Health may revoke the license of any institution found in non-compliance with the licensing law, or the rules and regulations issued pursuant thereto,

2.07.2 Multi-Disciplinary Review Committee --

(a) The Director of the Department of Mental Health shall appoint multi-disciplinary review committee members for a term of three (3) years after the initial appointments to provide a rotation of membership on the



committee.

(b) The multi-disciplinary review committee shall be representative of the West Virginia Health, Education, and Welfare State Agencies and such other professional associations representative of facilities and programs for the mentally ill and/or mentally retarded to ensure a fair and unbiased review of the deficiencies cited as reason for revocation of license to operate. The Director of the Bureau of Licensing shall be an ex officio member of the multi-disciplinary review committee.

(c) The Multi-disciplinary review committee shall meet on call, as needed. Thirty (30) day notice shall be given of meetings.

2.07.3 Revocation of License --After consideration of the recommendations of the multi-disciplinary review committee, the decision to revoke, or not to revoke, the license shall be made by the Director of the Department of Mental Health, and shall be final.

2.07.4 License To Be Returned to Department of Mental Health --The license shall be returned by the applicant to the Department of Mental Health immediately upon its revocation, or when the institution voluntarily ceases



operation, or if license is technically voided because of transfer or change of ownership, name, location, or operation.



Section 3. Community Mental Health Centers

3.01. General

3.01.1 Essential Elements Of Care --A community mental health center shall provide within the center or on a written contractual basis, the following essential elements of care:

- (1) Emergency care to provide clinical diagnosis and treatment;
- (2) Outpatient;
- (3) Partial hospitalization, including day care, evening and night care, and weekend care as dictated by patient needs;
- (4) Inpatient; and
- (5) Consultation and Education for Professional providers of care and treatment of mental disorders;

Unless however, temporary waiver not to exceed eighteen (18) months has been granted to community mental health centers serving areas designated as urban or rural poverty areas by the Secretary of Health Education and Welfare, in which case the community mental health center shall:



- (1) be able to provide at least three of the five essential services;
- (2) be able to initiate the waived services within eighteen (18) months from the date that the application was signed by the authorized representative;
- (3) Make satisfactory arrangements for residents of the catchment area to obtain the essential elements of service not provided during the waiver period.

3.01.2 The comprehensive mental health center should provide within the center or on written contractual basis, in addition to the five (5) essential elements of care set forth in Section 3.01.1 of these regulations, the following services:

- (6) Inservice Training and Education;
- (7) Research and Evaluation;
- (8) Administrative Services;
- (9) Rehabilitation.

3.01.3 Contracted Services

(a) There shall be an agreement, in writing, for the community mental health center services provided on a con-

