

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Division of Public Health TITLE NUMBER: 64

CITE AUTHORITY W. Va. Code §§27-9-1, 27-17-3 and 8-24-50b

AMENDMENT TO AN EXISTING RULE: YES NO

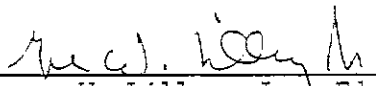
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: Licensure of Behavioral Health Centers

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

TITLE OF RULE BEING PROPOSED: _____

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.

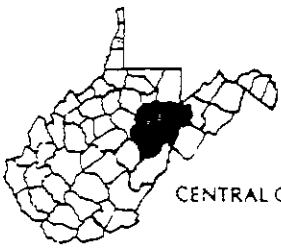


George W. Lilley, Jr., Ed.D.
Acting Administrator of Public Health

Proposed Rules
Public Comments Received
Discussion and Response

Title: Licensure of Behavioral Health Centers, West Virginia
Division of Health Legislative Rules, 64 CSR 11.

A public hearing regarding this rule was held on September 29, 1989. No one appeared at the hearing. One favorable written comment was received (copy attached).



THE APPALACHIAN
MENTAL HEALTH CENTER

CENTRAL OFFICE • P.O. BOX 1170 • WILMOTH & YOKUM STREETS • ELKINS, WV 26241 • 304-636-3232

Participating: BARBOUR, RANDOLPH, TUCKER and UPSHUR COUNTIES

September 27, 1989

Mr. John J. Jarrell
Health Facilities Licensure and Certification Section
West Virginia Department of Health and Human Services
Division of Health
Capital Complex
Charleston, W. Va. 25305

Dear Mr. Jarrell,

I am writing regarding the proposed Rule Change relative to 64 CSR 11, Licensure Standards for Behavioral Health Centers. Please consider this letter to be written comment on the proposed changes.

My comments are specific to section 64-11-3 paragraph 3.3 g which provides an exception from the licensure regs. for "Residential facilities providing mental health or substance abuse services for individuals under the age of eighteen (18) which are subject to licensure by the West Virginia Department of Human Services".

I believe that this exception should be deleted and all such residential facilities and/or programs as described in the Application paragraph (3.1) be subject to licensure as behavioral health facilities. Programs and/or facilities which profess to provide both child care and treatment for emotionally disturbed or substance abusing children and youth should be subject to licensure as a Child Care Facility by the Division of Human Services and licensure as a Behavioral Health Program by the Division of Health.

Having stated my position on the rule change, let me also comment on the general issues raised.

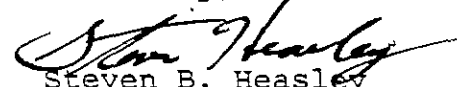
In 1983 when the current Behavioral Health licensing regs. were developed I was asked to review the regulations and recommended at that time that "Child Care" facilities licensed by the Department of Human Services be exempted due to the fact that, in many ways, the licensing standards for "Group Residential Facilities" through DHS were more applicable to programs operating at that time. In 1983 the Department of Human Services did not fund and license "treatment facilities" for emotionally disturbed and chemically dependent youth.

The intent of the exemption in the licensure regs. for Behavioral Health Centers was to avoid forcing "child care" facilities who may have mentally ill or substance abusing youth in residence from having to be licensed as behavioral health centers. Since 1983, several programs/facilities have been established for the specific purpose of providing treatment to mentally ill and/or substance abusing youth and have escaped review by the Division of Health due to licensure by the Division of Human Services as "group residential facilities".

Another relevant issue is the failure to adopt an additional section to the Human Services licensure regs. which was developed in 1985 to cover "adolescent mentally ill/substance abuse programs". These additional licensing standards were drafted by a Technical Advisory Committee working with State level staff at the Dept. of Human Services and Department of Health. I participated in the development of these draft standards. This draft was submitted to Dorothy Allen, Assistant Commissioner of the Department of Human Services by Desmond Byrne, Director of Health Planning and Evaluation on April 3, 1985. These standards were never processed through regulatory adoption procedures nor incorporated into DHS licensing standards.

I would recommend that appropriate licensing standards for programs and facilities providing "treatment" for emotionally disturbed and/or substance abusing youth should be adopted since, in my opinion, none of the existing standards are adequate. Given the current situation, however, I would urge the change in the rule to require review by the Division of Health since behavioral health licensing is clearly applicable for facilities and programs with the expressed intent to provide "treatment" to mentally ill and substance abusing children and youth.

Sincerely,


Steven B. Heasley
Associate Director

copy: George Lilly
Taunja Willis-Miller