

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III**

ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In This Box

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2001 JUN 13 P 3:13

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Health, Dep't of Health and Human Resources TITLE NUMBER: 64

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §49-5D-5(b)

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: 20

TITLE OF RULE BEING PROPOSED: State Child Fatality Review Team and County Multidisciplinary
Investivative Teams

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 July 13, 2001 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Regulatory Support - DHHR

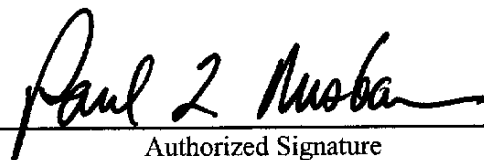
Capitol Complex

Building 3, Room 201

Charleston, WV 25305

Att'n: Beth Marquart, Director

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$4.20

Brief Summary of the Rule

The West Virginia Child Fatality Review Team was created by the West Virginia Legislature in 1996. Current statutes require the CFRT to promulgate rules as to the “standard procedures for the establishment, formation and conduct of the state team and to recommend protocols for the review of child fatalities where other than natural causes are suspected.” These rules would implement the provisions of W.Va. Code §49-5D-5 and allow the CFRT to come into compliance with these statutes.

Statement of Circumstances Which Require the Proposed Rule

Chapter §49-5-5D-5(b) requires the state Child Fatality Review Team to promulgate rules applicable to the standard procedures for the establishment, formation and conduct of the state child fatality review team and to recommend protocols for the review of child fatalities where other than natural causes are suspected.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Establishment of the Child Fatality Review Team

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

Agency: Division of Health
Department of Health and 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	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					
Revenue	\$	\$	\$ 0	\$ 0	\$ 0

2. Explanation of above estimates.

The Child Fatality Review Team was created in statute in 1996, and has been funded by the Office of Social Services since 1998. The budget for the OCME will pick up the part-time coordinator position for the state Team beginning with FY2001-02.

Implementation of these rules will not require additional staff on a state or county level. W. Va. Code §49-5 required county multidisciplinary investigative teams to review cases of child death that were reported to their agency prior to 1996.

3. Objectives of this rule:

To outline the procedures for the establishment, formation and operation of the state child fatality review team; to recommend protocols for the review of child deaths where other than natural causes are suspected as required in §49-5D-5.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The Child Fatality Review Team operates under the Office of the Chief Medical Examiner. The Team is currently funded by the federal CAPTA funds through the Office of Social Services and will be picked up in the OCME budget beginning FY 2001-02. .

We anticipate no additional fiscal impact on state government.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

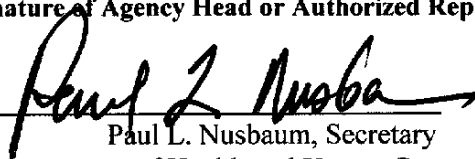
We anticipate no fiscal impact to above named groups. There are no additional responsibilities for staff in public agencies or industries that serve children.

C. Economic Impact on Citizens/Public at Large.

Citizens and the public in general have no involvement or responsibility resulting from these rules, therefore, we anticipate no fiscal impact on the above named groups.

Date: June 13, 2001

Signature of Agency Head or Authorized Representative:


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

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: June 13, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Bureau for Public Health
Department of Health and Human Resources

State Capitol Complex, Building 3, Room 201, Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: State Child Fatality Review Team and County
Multidisciplinary Investigative Teams

1. Authorizing statute(s) citation: WV Code Section 49-5D-5(b)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 13, 2001

b. What other notice, including advertising, did you give of the hearing?
Notice of the proposed rule was sent to the WV Prosecuting Attorney's Institute,
WV Hospital Association, WV Medical Association, WV Trooper's Association,
WV Sheriff's Association, Office of Social Services, and County Medical
Examiners and Coroners

c. Date of Public Hearing(s) or Public Comment Period ended:
July 13, 2001

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

Attached N/A No comments received N/A

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

N/A

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

Regulatory Support - DHHR

Building 3, Room 201, Capitol Complex

Charleston, West Virginia 25305

Att'n: Beth Marquart, Director

- 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):

Maureen Runyon, Coordinator

WV - Child Fatality Review Team

701 Jefferson Road; South Charleston, WV 25309

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 a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

**TITLE 64
LEGISLATIVE RULES
BUREAU FOR PUBLIC HEALTH**

FILED

2001 JUN 13 P 3:13

**SERIES 20
STATE CHILD FATALITY REVIEW TEAM
AND COUNTY MULTIDISCIPLINARY INVESTIGATIVE TEAMS**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§64-20-1. General.

1.1. Scope. - This rule establishes standard procedures for the formation and conduct of the state child fatality review team and recommends protocols for the review of child fatalities where other than natural causes are suspected. This rule should be read in conjunction with W. Va. Code §§ 49-5D-1 et seq. The W.Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. - W. Va. Code §49-5D-5(b)

1.3. Filing Date. -

1.4. Effective Date. -

§64-20-2. Application and Enforcement.

2.1. Application. - This rule applies to the state child fatality review team, county multidisciplinary investigative teams and other state, county or local agencies.

2.2. Enforcement. - This rule is enforced by the office of chief medical examiner of the bureau for public health.

§64-20-3. Definitions.

3.1. Child. - A person less than eighteen (18) years of age.

3.2. County Multidisciplinary Investigative Teams (CMIT). - Groups established by W. Va. Code §49-5D-2.

3.3. Department. - The West Virginia Department of Health and Human Resources.

3.4. Immediate review. - A review of the circumstances surrounding the death of a child that occurs between twenty-four (24) and forty-eight (48) hours after the death of a child,

3.5. Review. - The process by which all of the facts and circumstances about a deceased child and his or her family that are known to members of a team are shared and discussed among the team.

3.6. State Child Fatality Review Team (SCFRT). - A multidisciplinary group of professionals including representatives from public health, medicine, law and law enforcement, and child welfare that reviews the circumstances surrounding the deaths of children.

3.7. Unexpected death. - The death of a healthy child whose immediate death is not anticipated.

3.8. Unexplained death. - The cause and manner of death of a child that cannot be determined after an autopsy and thorough investigation of the circumstances surrounding the death.

§64-20-4. Responsibilities of State Child Fatality Review Team.

4.1. The SCFRT shall perform the duties described in W. Va. Code §49-5D-5, including the review of deaths of all children who were residents of the State of West Virginia at the time of death, regardless of the place of death, with the objective of identifying causal patterns in child fatalities.

§64-20-5. Conduct of State Child Fatality Review Team.

5.1. The SCFRT shall meet monthly.

5.2. The chairperson of the team shall appoint persons to vacancies on the SCFRT on an interim basis, while awaiting completion of the nomination and appointment process by the governor as outlined in W. Va. Code §49-5D-5.

5.3. The chairperson of the SCFRT, or his or her designee, and the team members shall review death certificates of children sent monthly by the office of vital statistics and shall determine which are unexpected or unexplained deaths.

5.4. Each member of the SCFRT shall examine the records of his or her agency to determine if the child, or the child's parents or guardians, have received services at his or her agency, and if necessary, may contact other agencies to complete the review.

5.5. Team members shall present to the rest of the SCFRT the information obtained from the record reviews, but shall retain the documents in each's agency's files.

5.6. All documents regarding a particular case that are reviewed by the SCFRT shall be destroyed by the SCFRT after the publication of the annual report in which that case data is included.

5.7. The SCFRT, in the exercise of its duties, shall not contact a family member of a deceased child in order to obtain information about the child or the circumstances surrounding the child's death. A member of the SCFRT who is involved in the investigation of the death outside of his or her SCFRT membership, however, may perform his or her regular duties related

to the investigation, including contacting a family member of the child outside of the team.

5.8. The SCFRT, in the exercise of its duties, shall not call witnesses or take testimony from individuals involved in the investigation of a fatality.

5.9. The SCFRT shall submit an annual report to the Governor and the Legislature on the first day of December that includes the following information:

5.9.a. The number of child fatalities and their causes;

5.9.b. The number of deaths determined to be unexpected or unexplained; and

5.9.c. Recommendations to reduce the number of preventable child fatalities

§64-20-6. Confidentiality.

6.1. All information, records of the SCFRT, and opinions expressed by members of the SCFRT shall be confidential as described in W.Va. Code §49-7-1. Members of the SCFRT shall sign a statement of confidentiality acknowledging that they understand that information obtained through the review process is confidential and will not be used for reasons other than that for which it was intended. Willful violation of this provision is a misdemeanor as outlined in W.Va. Code §49-7-1(f).

§64-20-7. Recommended Protocols for Review of Child Fatalities.

The following are recommended protocols to aid CMITS in the review of child deaths where other than natural causes are suspected:

7.1. The county prosecutor or his or her designee may call for an immediate review of a child fatality when that death is believed to have occurred from other than natural causes.

7.2. In deaths where other than natural causes are suspected and there is a surviving minor sibling in the home, child protective services shall provide an assessment of the family to determine the safety and well-being of siblings. Such causes of death may be, but are not limited to suicide, homicide, sudden infant death syndrome, and accidents.

7.3. The county prosecutor or his or her designee shall request from the SCFRT a copy of death certificates of children that resided in his or her county.

7.4. Once death certificates are received, the prosecutor shall direct the distribution of the death certificates to members of the CMIT.

7.5. Members of the CMIT shall bring with them to team meetings the records and information that their agency possesses about the child, family, circumstances surrounding the death, as well as any other relevant information.

7.6. The county prosecutor or his or her designee shall complete the child fatality review data form to the best of his or her knowledge and send the form to the SCFRT within thirty (30) days of review.

7.7. CMITs may defer all reviews to the SCFRT.