

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

Form #7

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2002 FEB 20 P 3:30

OFFICE WEST VIRGINIA
SECRETARY OF STATE
Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: Nursing Home Administrators Licensing Board TITLE NUMBER: 21

CITE AUTHORITY: West Virginia Code sections 30-25-7(3), 29A-3-15(a)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: 21-1-4 Education, Training and Experience (4.3.2); 21-1-5
Licenses (5.2.1, 5.2.3, 5.5.2, 5.6.2); Reciprocity 21-1-7 (7.1).

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

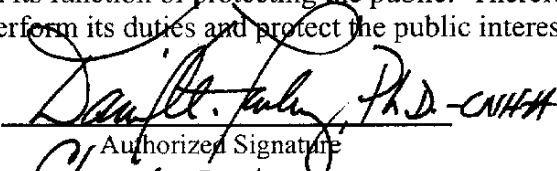
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Pursuant to West Virginia Code section 30-1-1a, the West Virginia legislature declares that the fundamental purpose of licensure and registration is to protect the public. The fees that the Nursing Home Administrators Licensing Board generate are not adequate to cover the Board's operating expenses. Said fees are not sufficient for the Board to properly regulate nursing home administrators. As a result, the Board cannot sufficiently operate to perform its function of protecting the public. Therefore, the Board must increase its fees so that it can properly perform its duties and protect the public interest.

Use additional sheets if necessary


Authorized Signature
Championson

BRIEF SUMMARY OF THE EMERGENCY RULE

The Nursing Home Administrators Licensing Board does not generate adequate fees to cover its operating expenses. As a result, the Board cannot properly regulate nursing home administrators. In order to properly perform its duties, the Board is filing an emergency rule which amends several current legislative rules contained in title 21, series 1. In assessing the financial needs of the Board, which currently has a negative account balance, the Board has decided to approve a 50% increase for application fees, permit fees, and renewal fees as follows:

1. In § 21-1-4.3.2, the fee for an Administrator in Training (AIT) application will increase from Four Hundred Dollars (\$400.00) to Six Hundred Dollars (\$600.00);
2. In § 21-1-5.2.3, the fee for an application for issuance of a license will increase from Four Hundred Dollars (\$400.00) to Six Hundred Dollars (\$600.00);
3. In § 21-1-5.4.3, the fee for an emergency permit will increase from Two Hundred Dollars (\$200.00) to Three Hundred Dollars (\$300.00);
4. In § 21-1-5.6.2, the fee for a temporary permit will increase from Two Hundred Dollars (\$200.00) to Three Hundred Dollars (\$300.00);
5. In § 21-1-5.6.2, the fee for an AIT permit will increase from Four Hundred Dollars (\$400.00) to Six Hundred Dollars (\$600.00); and
6. In § 21-1-7.1, the fee for a reciprocity application will increase from Four Hundred Dollars (\$400.00) to Six Hundred Dollars (\$600.00).

**SPECIFIC STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE
RULE TO BE FILED AS AN EMERGENCY**

Pursuant to West Virginia Code section 30-1-1a, the West Virginia legislature declares that the fundamental purpose of licensure and registration is to protect the public. The fees that the Nursing Home Administrators Licensing Board generate are not adequate to cover the Board's operating expenses. Said fees are not sufficient for the Board to properly regulate nursing home administrators. As a result, the Board cannot sufficiently operate to perform its function of protecting the public. Therefore, the Board must increase its fees so that it can properly perform its duties and protect the public interest.

**TITLE 21
LEGISLATIVE RULE
WEST VIRGINIA NURSING HOME ADMINISTRATORS
LICENSING BOARD**

**SERIES 1
NURSING HOME ADMINISTRATORS**

FILED

2002 FEB 20 P 3: 31

WEST VIRGINIA
SECRETARY OF STATE

§21-1-1. General.

1.1. Scope. -- This rule establishes the requirements for licensing as a Nursing Home Administrator.

1.2. Authority. -- W. Va. Code §30-25-7.

1.3. Filing Date. -- April 3, 2000.

1.4. Effective Date. -- April 3, 2000.

§21-1-2. Definitions.

Whenever used in this Rule, unless the context or subject matter requires a different meaning, the following terms have their respective meanings:

2.1. "Applicant" means the person who submits an application for a license or permit pursuant to this Rule;

2.2. "Board" means the West Virginia Nursing Home Administrators Licensing Board as created in W. Va. Code §30-25-2;

2.3. "Examination" means both the national test and the state test that applicants are required to pass, unless specified otherwise;

2.4. "License" means the document issued by the Board which authorizes a person to perform the functions of a nursing home administrator as defined and directed in this Rule;

2.5. "Nursing Home Administrator-in-Training" (AIT) means an individual registered as such with the Board, under subsection 4.3. of this Rule;

2.6. "Practice of Nursing Home Administration" means that performance of any act or the making of any decision involved in the planning, organizing, directing and/or control of the operation of a nursing home;

2.7. "Reexamination" is a process whereby the applicant may petition the Board to retake either the National and/or State examination if the applicant has not passed the licensure exams; and

2.8. "Violation" means a failure to comply with W. Va. Code §§301, et seq. and 30-1-1 et seq or any provision of this Rule.

§21-1-3. Examinations.

3.1. Scheduling of examinations and reexaminations.

3.1.1. The Board shall hold examinations at least twice a year in April and October. Applicants for examination shall meet all pre-requirements for taking the examination as specified in this Rule. The Board shall notify applicants by mail of the date, time and place of the examination. Applicants may take the national or state test three (3) times. If an applicant fails the national examination for the third time, the applicant shall appear before the Board and present evidence of further education before the Board may consider that person eligible for reexamination.

3.1.2. A record stating in detail the results of the examination for each applicant shall be kept by the Board as a permanent record.

3.1.3. All cost or fees charged by the testing agency for the national examination are

not covered in the initial application fee. An applicant shall pay all testing fees directly to the testing agency.

3.2. Pre-examination requirements:

3.2.1. The pre-examination requirements in this section do not apply to any person licensed as a nursing home administrator prior to May 10, 1986 who has maintained continuous licensure since that time.

3.2.2. The Board shall not admit or permit any person to take an examination for licensure as a nursing home administrator unless that person has submitted thirty (30) days prior to the examination day, an application for Board approval. The Board shall consider the application an application for licensure and also for examination and qualification. The application shall be in writing on forms provided by the Board and shall furnish evidence satisfactory to the Board that the applicant is:

3.2.2.a. over twenty-one (21) years of age; and

3.2.2.b. suitable and fit to be licensed and to practice as a nursing home administrator. A licensed physician shall submit evidence of the applicant's fitness and suitability directly to the Board on forms provided by the Board and shall include, among other things, evidence of the:

3.2.2.c. Absence of physical impairments to perform the duties of a nursing home administrator, which include good health and freedom from contagious disease; and

3.2.2.d. Absence of any mental impairment that would appear to the Board to be likely to interfere with the performance of the duties of a nursing home administrator.

3.2.3. The Board shall obtain letters of satisfactory performance covering at least the calendar year preceding the date of application from appropriate parties relating to the applicants ability to:

3.2.3.a. Understand and communicate general and technical information necessary to the administration and operation of a nursing home (i.e., applicable health and safety rules);

3.2.3.b. Assume responsibilities for the administration of a nursing home as evidenced by prior accredited activities and evaluations of prior services; and

3.2.3.c. relate the physical, psychological, spiritual, emotional and social needs of ill and/or aged individuals to the nursing home administration and create the compassionate climate necessary to meet the needs of the patients in the nursing home.

3.2.4. In addition to the completion of high school or secondary school education, the applicant shall have successfully completed a course of study in and been awarded a baccalaureate degree in:

3.2.4.a. nursing home administration, hospital administration, or other related field as determined by the Board. The applicant shall also have at least (1000) hours experience in an administrative position in a long term care setting. Related health administration fields include nursing, medicine, osteopathy, social work with a concentration in gerontology, psychology, etc. When an applicant has an approved degree, he or she shall verify with the Board that a minimum of twelve (12) college hours were earned in subjects specifically designated as health care management and/or health care administration. Verification allows the Board the flexibility to consider waiver of the Administrator-In-Training (AIT) program prior to approval of the applicant to take the national and state examinations leading to licensure as a Nursing Home Administrator. If the applicant fails to produce documentation satisfactory to the Board, he or she shall complete an Administrator-In-Training (AIT) program as specified in subsection 4.3. of this rule; or

3.2.4.b. a non-health administration field. The applicant shall also complete a one (1) year Administrator-In-Training (AIT) program as

specified in subsection 4.3. of this rule. The Board may waive the Administrator-In-Training (AIT) program and approve the applicant to take the national and state examinations if:

3.2.4.c. the applicant possesses a baccalaureate degree in a non-related health care field (i.e., secondary education, accounting, marketing, etc.) but has worked in long-term care in the role of an assistant administrator or an equivalent position such as Director of Nursing, Assistant Director of Nursing, Social Services Director, for a period of three (3) years.

3.2.5. The applicant may not acquire his or her (1000) hour administrative work experience specified in subsection 3.2 of this section, by working on an emergency permit or by participation in an Administrator-In-Training Program.

3.2.6. The Board shall not permit an applicant for examination who has been convicted of a felony by any court in West Virginia, or by any court of the United States, to take the licensure examination. A criminal identification Bureau Report shall be requested by the Board from the West Virginia State Police, on all applicants for Administrator licensing.

3.2.7. The Board considers the pre-examination requirements for licensure set forth in this section as minimal and shall not waive them.

3.2.8. The Board may designate a time and place at which an applicant may be required to present himself or herself for inquiry as to his or her suitability for licensure.

3.3. Disqualification: Reexamination.

3.3.1. An applicant for examination who does not meet pre-examination requirements shall be given written notification by the Board by certified mail return receipt requested, of his or her disqualification and the reasons for the disqualification and of his or her right to a hearing within thirty (30) days.

3.3.2. An applicant for examination who does not meet pre-examination requirements may petition the Board in writing for a hearing and a review of his or her application within thirty (30) days of receipt of the notification of disqualification.

3.3.3. Where an applicant for examination has not met pre-examination requirements, he or she may submit a new application for qualification for examination. The applicant shall meet the requirements for licensing that are in force at the time of the reapplication.

3.4. Subjects for national examination.

3.4.1. Every applicant for licensure as a nursing home administrator, after meeting the requirements for qualification for licensure and examination as set forth in this Rule shall successfully pass a written national examination which may include, but not be limited to, the following subjects:

3.4.1.a. Resident Care Management

3.4.1.a.1. The applicant shall have a working knowledge of:

3.4.1.a.1.A. nursing services to maximize resident quality of life;

3.4.1.a.1.B. social service programs to maximize resident quality of life;

3.4.1.a.1.C. food service programs which meet the nutritional needs of residents, to maximize resident quality of life;

3.4.1.a.1.D. medical services to meet resident medical care needs, to maximize resident quality of life;

3.4.1.a.1.E. therapeutic recreational/activity programs to meet the needs, wants, and interests of residents, to maximize resident quality of life;

3.4.1.a.1.F. medical records

programs to meet documentation requirements;

3.4.1.a.1.G. pharmaceutical programs to support medical care for residents to maximize resident quality of life; and

3.4.1.a.1.H. rehabilitation programs to maximize resident's optimal level of functioning

3.4.1.b. Personnel Management

3.4.1.b.1. The applicant shall have a working knowledge of:

3.4.1.b.1.A. the process of communication between management and all staff;

3.4.1.b.1.B. the recruitment, evaluation, and retention of individuals to provide resident care and services;

3.4.1.b.1.C. personnel policies, which are planned, implemented, and evaluated to comply with governmental entities, laws, and regulations; and

3.4.1.b.1.D. employee health and safety programs.

3.4.1.c. Financial Management

3.4.1.c.1. The applicant shall have a working knowledge of:

3.4.1.c.1.A. the budget process for facilities to allocate fiscal resources;

3.4.1.c.1.B. systems to monitor financial performance; and

3.4.1.c.1.C. financial audits and reporting systems.

3.4.1.d. Environmental Management

3.4.1.d.1. The applicant shall have a working knowledge of:

3.4.1.d.1.A. systems for maintaining and improving buildings, grounds and equipment;

3.4.1.d.1.B. programs that provide a clean, attractive, and home-like environment for residents, staff and visitors;

3.4.1.d.1.C. environmental safety programs that ensure the health, welfare, and safety of residents, staff, and visitors; and

3.4.1.d.1.D. emergency programs to protect the safety and welfare of residents, staff, and property.

3.4.1.e. Governance and Management

3.4.1.e.1. The applicant shall have a working knowledge of:

3.4.1.e.1.A. policies and procedures which maintain compliance with directives of governing entities;

3.4.1.e.1.B. the need to observe, monitor, and evaluate outcomes of all facility programs, policies, and procedures, to ensure effectiveness

3.4.1.e.1.C. the need to monitor and evaluate resident satisfaction with quality of care and quality of life, through communications with the resident, the resident's representatives or family, staff, volunteers, and governing entities to, maximize the resident's quality of life;

3.4.1.e.1.D. the need to implement, monitor and ensure the integration of resident rights with all aspects of operation;

3.4.1.e.1.E. the need to plan, implement and evaluate risk management programs;

3.4.1.e.1.F. the need to plan, implement and evaluate programs which inform residents and the community of the services

offered; and

3.4.1.e.1.G. the need to plan, implement and promote integration between a facility and other community resources (e.g., educational institutions, hospitals, vendors).

3.5. Subjects for State examination.

3.5.1. Every applicant for licensure as a nursing home administrator after meeting the requirements for qualification for licensure and examination as set forth in this Rule shall successfully pass a written state examination which may include, but not be limited to, the following subjects:

3.5.1.a. Physical Equipment and Facilities;

3.5.1.b. Facility Governance and Management;

3.5.1.c. General Health and Safety;

3.5.1.d. General Residents Rights, Policies and Procedures;

3.5.1.e. Medical and Dental Service;

3.5.1.f. Nursing Service;

3.5.1.g. Dietetic Service;

3.5.1.h. Pharmaceutical Service;

3.5.1.i. Social Services and Activities; and

3.5.1.j. Plans for Care and Medical Records.

§21-1-4. Education, Training and Experience.

4.1. Registration of licensed and/or accredited education institutions and courses of study.

4.1.1. Any courses of study offered by a

licensed and/or accredited educational institution, for the purpose of qualifying applicants for licensure as a nursing home administrator shall first be submitted to the Board for approval by the educational institution or by the applicant for licensure. In order for a course of study to be approved, it shall cover those subjects contained on the written national examination as provided for in subsection 3.4. of this rule.

4.2. Registration of continuing education programs.

4.2.1. On and after June 30, 1994 every licensed administrator shall obtain annually, at least twenty (20) clock hours of continuing education, through programs approved by the Board or by the National Association of Boards of Examiners of Long Term Care Administrators National Continuing Education Review Service (NCERS).

4.2.2. A Licensee seeking continuing education hours for completion of a college course in health care administration, may submit to the Board the syllabus of the completed course along with a copy of the official transcript verifying the final grade received. The Board may approve One (1) credited college course hour, to be applied as ten (10) continuing education hours.

4.3. Practical training and experience one (1) year Administrator-In-Training (AIT) Program.

4.3.1. The applicant has the option of acquiring his/her Administrator-In-Training Program under this rule or under the Board's approved program sponsored by the WV Chapter off the American College of Health Care Administrators (WV ACHCA).

4.3.2. Prior to entering the one (1) year nursing home Administrator-in-Training (AIT) program for the purpose of obtaining practical training and experience, the applicant shall apply for the Administrator-in-Training (AIT) permit on a form prescribed by the Board, and submit a fee of ~~four hundred dollars (\$400.00)~~ Six Hundred

Dollars (\$600.00) payable by certified check or money order to the West Virginia Nursing Home Administrators Licensing Board.

4.3.3. The Board shall not approve an application for an Administrator-in-Training (AIT) permit unless the applicant submits evidence satisfactory to the Board that he or she meets all preexamination requirements under this rule and that:

4.3.3.a. the training will be under the full-time supervision of a fully licensed nursing home administrator who has been licensed for at least three (3) years and licensed and practicing in West Virginia for at least the preceding year. The nursing home administrator must be approved by the Board as a preceptor, and accept the responsibility of training the applicant;

4.3.3.b. the training is of a grade and character satisfactory to the Board;

4.3.3.c. the training is to be obtained in a duly licensed nursing home which has been approved by the Board;

4.3.3.d. the training is to be served during eight (8) consecutive hours, except for regular days off, with a minimum of forty (40) hours weekly;

4.3.3.e. the trainee agreement form provided by the Board is signed by the nursing home Administrator-in-Training (AIT) and the preceptor and submitted to the Board for approval;

4.3.3.f. the nursing home Administrator-in-Training (AIT) has no outside employment during training hours or thereafter unless the employment is known of and approved by the preceptor.

4.3.a. Progress report

4.3.a.1. Every preceptor of every Administrator-in-Training (AIT) shall file quarterly forms provided by the Board and shall

set forth an accurate record of the duties performed by the Administrator-in-Training (AIT) during the period covered by the report.

4.3.a.2. Every report filed by the preceptor of the nursing home Administrator-in-Training (AIT) shall be approved and signed by the preceptor and by the Administrator-in-Training (AIT).

4.3.a.3. If a preceptor of a nursing home Administrator-in-Training (AIT) fails to file quarterly reports for a period of two (2) years from the date of issuance of the in-training permit, the Board shall consider that the Administrator-in-Training (AIT) has abandoned his or her practical training and experience. In the event the Administrator-in-Training (AIT) thereafter seeks to qualify for a nursing home administrator license, the Board shall consider him or her as a new applicant, with no portion of training completed. The applicant shall meet the requirements for qualification for training, examination, and licensure that exist at the time of the new application.

4.3.a.4. A nursing home Administrator-in-Training (AIT) may take two (2) weeks leave for compulsory military training, vacation or sick leave each year without loss of credit for his or her required practical training and experience.

4.3.a.5. If an Administrator-in-Training (AIT) discontinues his or her training, the Preceptor and the Administrator-in-Training (AIT) are to report the discontinuance of the Administrator-in-Training Program to the Board, within 30 days after the discontinuance.

4.3.a.6. Change of preceptor of the nursing home Administrator-in-Training (AIT) in any nursing home shall be reported to the Board in writing by the preceptor and the Administrator-in-Training (AIT) within ten (10) days after the change of the supervision. The new administrator of the nursing home, if willing to continue the training program of the Administrator-in-Training (AIT), shall obtain Board approval for preceptorship.

4.3.a.7. The Board shall allow any person who was a duly authorized nursing home Administrator-in-Training (AIT) whose training and experience is interrupted by service in the Armed Forces of the United States, to resume his or her training and experience at any time within one (1) year after the date of his or her honorable discharge from active service.

4.3.a.8. The period for the training program as an Administrator-in-Training (AIT) shall last for a period of not more than one (1) year and shall be under the supervision of a preceptor who has been approved by the Board.

4.3.a.9. Alternating and rotating shifts of eight (8) working hours may be approved by the Board as being acceptable upon request by the Administrator-in-Training (AIT); provided, that at least fifty percent (50%) of the training hours will be served between the hours of 7:00 a.m. and 10:00 p.m. in regular steady, full time employment under the personal supervision of the nursing home administrator preceptor at the nursing home in which the nursing home Administrator-in-Training (AIT) is employed; and

4.3.a.10. the preceptor will provide full-time supervision for the Administrator-in-Training (AIT) and that the supervision is

provided in the nursing home where the trainee is employed.

4.3.a.11. In the event that the Board determines that a preceptor has failed to provide the Administrator-in-Training (AIT) with the opportunity to adequately train himself or herself under the proper supervision in the administrative and operating functions of the nursing home, the Board shall cancel the preceptor's authorization to serve as preceptor, for a period of time prescribed by the Board.

4.3.a.12. When the preceptor's authorization is cancelled, the Administrator-In-Training (AIT)'s program will be suspended until such time as the Administrator-in-Training (AIT) locates another preceptor who is approved by the Board; after which time the Administrator-in-Training (AIT)'s training shall continue.

4.3.a.13. After an applicant for licensure completes the Administrator-in-Training (AIT) program, and before he or she sits for the licensing examination, the Board may appoint a committee to determine if the applicant has received training consistent with the guidelines established by the Board.

4.3.a.14. After completion of the Administrator-In-Training (AIT) Program, the Administrator-In-Training (AIT) shall pay all additional fees referred to in subdivision 3.1.3. of this rule.

§21-1-5. Licenses.

5.1. Qualifications for licenses

5.1.1. To be eligible for a license as a nursing home administrator an applicant shall:

5.1.1.a. meet all pre-examination requirements as set forth in subsection 3.2. of this Rule, as well as meet requirements of all other applicable Rules; and

5.1.1.b. pass the national and state examinations prescribed by the Board in the subject of nursing home administration.

5.2. Application for and issuance of license, renewal of licenses and display.

5.2.1. Any applicant for a nursing home administrator license shall submit an application, on forms prescribed by the Board containing information the Board may determine reasonable under this Rule, and pay the Board a license fee of ~~Four Hundred Dollars (\$400.00)~~ Six Hundred Dollars (\$600.00) in the form of a certified check or money order. The Board shall return the fee, minus any costs incurred by the Board (i.e. processing fee), if it denies a license to the applicant.

5.2.2. Whenever the Board finds that an applicant meets all of the requirements of this Rule for a license as a nursing home administrator, it shall immediately issue a license to the applicant. If the Board finds the applicant does not meet the requirements, the Board shall contact the applicant in writing and give reasons for the denial of the license.

5.2.3. The license is valid for a period ending on June 30 each year and may be renewed without formal examination upon timely application for renewal on a form prescribed by the Board and payment to the Board of the renewal fee of ~~Two Hundred Dollars (\$200.00)~~ Three Hundred Dollars (\$300.00) in the form of a certified check or money order. The Board may deny an application for renewal for any reason which would justify the denial of an original application for a license, or for failure to provide written verification of satisfactory attendance and completion of relevant continuing education as specified in subsection 4.2. of this rule.

5.2.4. The nursing home administrator license certificate shall be conspicuously displayed by the licensee at each nursing home for which he or she is the administrator.

5.2.5. Only a person who has qualified as

a licensed nursing home administrator and who hold a valid current license certificate pursuant to the provisions of this Rule may use the title "Nursing Home Administrator" and the abbreviation of "N.H.A." after his or her name. No other person shall use or shall be designated by this title or this abbreviation or any other words, letters, etc., to, indicate he or she is licensed as a nursing home administrator.

5.2.6. A person who is a holder of an emergency permit or of an Administrator-in-Training (AIT) permit shall not be considered as meeting the requirements for licensure as a nursing home administrator and, therefore, may not use the title "Nursing Home Administrator" or the abbreviation of "N.H.A."

5.2.7. No person shall be or act as a nursing home administrator, except as provided by W. Va. Code §30-25-9, unless they hold a current valid license or permit issued pursuant to this Rule;

5.2.8. A listing of West Virginia's Nursing Home Administrators is available for a fee of \$50.00.

5.3. License Restrictions

5.3.1. The following restrictions apply to licensed nursing home administrators:

5.3.1.a. A licensed nursing home administrator shall not direct more than two (2) nursing homes at one time. An administrator may direct two (2) nursing homes which are within reasonable proximity. For the purposes of this section, reasonable proximity is defined as thirty (30) minutes driving time. An administrator may not direct more than a total of one hundred twenty (120) beds.

5.3.1.b. the administrator of two (2) nursing homes shall average not less than twenty (20) hours per week at each nursing home. The administrator shall have a competent and experienced assistant at each nursing home. The nursing home administrator shall document each

period of service. The documentation shall be available to the Board request;

5.3.1.c. a nursing home administrator who is a registered professional nurse cannot serve the same nursing home both as a director of nursing services and administrator unless the nursing home has a licensed capacity of thirty (30) beds or less;

5.3.1.d. any administrator who is also director of nursing services or who has any other dual capacity in any other nursing home regardless of whether or not the second home is within reasonable proximity shall obtain prior Board approval to serve in that dual capacity; and

5.3.1.e. the nursing home administrator, upon receipt of a license, is responsible for any nursing home which he or she administers, while meeting all applicable state and federal laws and rules and regulations;

5.4. Emergency permit

5.4.1. If a licensed nursing home administrator dies or is unable to continue as the administrator for an unexpected cause, the owner or governing body or other appropriate person in charge of the nursing home involved may designate an acting authority as administrator. The Board may issue an emergency permit to the acting administrator if it finds the appointment will not endanger the safety of the occupants of the nursing home.

5.4.2. An emergency permit is valid for a maximum of six (6) months and is not renewable.

5.4.3. The fee for an emergency permit is ~~Two Hundred Dollars (\$200.00)~~ Three Hundred Dollars and shall be submitted in the form of a certified check or money order, and is non-refundable.

5.5. Temporary Permit.

5.5.1. The Board may issue a temporary permit for a period of ninety (90) days, to an

applicant for a reciprocity license who has accepted employment in the State of West Virginia, but who must wait for the Board to meet to act on his or her application. The temporary permit may be renewed at the discretion of the Board.

5.5.2. The fee for a temporary permit is ~~Two Hundred Dollars (\$200.00)~~ Three Hundred Dollars and shall be submitted in the form of a certified check or money order, and is non-refundable.

5.6. Administrator-in-Training

5.6.1. Administrator-in-Training (AIT) permits shall be issued by the Board as outlined in subsection 4.3. of this Rule.

5.6.2. The fee for an Administrator-in-Training (AIT) permit is ~~Four Hundred Dollars (\$400.00)~~ Six Hundred Dollars (\$600.00) and shall be submitted in the form of a certified check or money order.

5.7. Lost, mutilated or destroyed licenses

5.7.1. Upon receipt of satisfactory evidence that a license has been lost, mutilated or destroyed, the Board shall issue a duplicate license upon payment of a fee of Five Dollars (\$5.00).

5.8. Return of license

5.8.1. The administrator shall return the license certificate and/or duplicate copies to the Board immediately upon revocation of the license or request by the Board.

§21-1-6. Suspension or Revocation, Hearing and Judicial Review.

6.1. Suspension or revocation of license or permits.

6.1.1. The Board may at any time upon its own motion and shall upon verified written complaint of any person, conduct an investigation

to determine whether there are any grounds for the suspension or revocation of a license or permit issued pursuant to this Rule.

6.1.2. The Board shall suspend or revoke any license or permit when it finds the licensee or holder of a temporary permit has:

6.1.2.a. obtained a license or permit by means of fraud or deceit; or

6.1.2.b. failed or refused to comply with the provisions of this Rule, or with the provisions of W. Va. Code §16-5C-1, et seq.

6.1.3. When the Board suspends or revokes a license of a licensee, it shall notify the Office of Health Facility Licensure and Certification (OHFLAC) of their actions.

6.2. Complaints and hearing procedures

6.2.1. Complaints

6.2.1.a. Any person, public officer, association or the Board may register a complaint against any licensee, Administrator-in-Training (AIT) or holder of an emergency or temporary permit for any of the reasons specified in subsection 6.1. of this Rule. The complaint, submitted to the Board shall be in writing and duly verified.

6.2.2. Preliminary hearings.

6.2.2.a. The Board, or any person or persons appointed by it, may hold a preliminary hearing to determine whether a formal hearing on the charges is necessary. The Board shall give the person against whom the complaint has been registered, written notice of the date, time and place of the preliminary hearing.

6.2.2.b. The Board may dismiss the complaint and take no action on the complaint, by formal hearing or otherwise. In that event the Board shall file and make a part of its record the complaint and the order dismissing the complaint. If the Board does not dismiss the complaint, it

shall hold a formal hearing in accordance with subsection 6.3. of this Rule.

6.3. Procedures for hearing.

6.3.1. The Board may deny a license, renewal of a license or permit pursuant to W. Va. Code §§30-25-1 et seq and 30-1-1 et seq.

6.3.2. Whenever the Board denies an application for any original or renewal license or denies an application for an emergency permit it shall make and enter an order to that effect and serve a copy of the order on the applicant licensee, or permittee as the case may be, by certified mail, return receipt requested.. If the applicant desires to challenge the Board's order denying the application, the applicant shall request a hearing. The request shall be made in writing to the Board within twenty (20) days after receipt of the order. Whenever the Board determines that there is probable cause to believe a permit holder or licensee has violated W. Va. Code §30-25-1 et seq. or any provision of this rule the Board shall serve upon the licensee, by certified mail, return receipt requested, a copy of the notice of hearing. The notice of hearing shall provide the licensee with notice of the charges being brought against him or her.

6.3.3. All of the pertinent provisions of W. Va. Code §§29A-5-1, and §30-1-1 et seq., apply to and govern the hearing and the administrative procedures in connection with and following the hearing.

6.3.4. Upon conclusion of the hearing, the Board may revoke the license of the licensee, or an emergency or temporary permit, or take other disciplinary action or dismiss the charges.

6.3.5. An order of suspension made by the Board may contain provisions regarding reinstatement of the license or permit.

6.3.6. The Board, in its discretion, may direct a rehearing or take additional evidence, and may rescind or affirm the prior order after the rehearing, but nothing in this section shall

preclude appropriate relief under and pursuant to the laws providing for the review of an administrative determination by the courts of the state.

6.3.7. The order of the Board is final unless reversed, vacated or modified upon judicial review of the order in accordance with the provisions of subsection 6.4. of this Rule.

6.4. Judicial review; Appeal to Supreme Court of Appeals.

6.4.1. Any person adversely affected by an order of the Board rendered after a hearing held in accordance with the provisions of subsection 6.3. of this Rule, is entitled to judicial review of the decision. All of the pertinent provisions of W. Va. Code §29A-5-1, et seq. apply to and govern the judicial review.

6.4.2. The judgment of the circuit court is final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of W. Va. Code §29A-6-1, et seq.

§21-1-7. Reciprocity.

7.1. The Board in its discretion, and subject to W. Va. Code §30-25-4 prescribing the qualifications for a nursing home administrator license, may grant a nursing home administrator license to an individual licensed in another state, who possesses the qualifications and meets the reasonable standards prescribed by the Board pursuant to W. Va. Code §30-25-7(a) and upon payment of a fee of ~~Four Hundred Dollars (\$400.00)~~ Six Hundred Dollars (\$600.00).

7.1.1. Applicant's who are certified administrator's in good standing with the American College of Health Care Administrators (ACHCA); or

7.1.2. that the following conditions are met:

7.1.2.a. the other state maintains a

system and standard of qualification and examination for a nursing home administrator license, which is at least as great as those required in West Virginia;

7.1.2.b. the other state gives similar recognition and reciprocity to nursing home administrators licenses of West Virginia; and

7.1.2.c. the applicant for reciprocity holds a current license as a nursing home administrator which has not been revoked or suspended.

7.1.3. a nursing home administrator licensed in this state seeking reciprocity/endorsement into another state and requiring Board verification of licensure, shall submit a fee of one hundred dollars (\$100.00) to the Board for this verification.

§21-1-8. Restoration.

8.1. The Board may restore a license after revocation upon submission of evidence satisfactory to the Board that the applicant for the restoration of a license has removed the disability.

8.2. Restoration after lapse.

8.2.1. The Board may reinstate a license which has lapsed during the first year immediately following the expiration date of a valid permanent administrator license. The Nursing Home Administrator with a lapsed license shall submit a formal request as well as an application for licensure along with the proper fee and meet the requirements for continuing education hours.

8.2.2. The nursing home administrator seeking reinstatement shall pay a late charge for reinstatement of license, in addition to the licensure renewal fee.

8.2.2.a. The Board shall impose the following reinstatement fees:

July 1, through September 30th
one hundred dollars (\$100.00).

July 1, through December 31st two hundred dollars (\$200.00).

July 1, through March 31st three hundred dollars (\$300.00).

July 1, through June 30th four hundred dollars (\$400.00).

8.2.3. After one (1) year from the expiration date of his or her license, the Board shall consider the nursing home administrator in question as a new applicant and the applicant is subject to all of the provisions of this Rule.

§21-1-9. Refunds.

9.1. The Board shall refund to all applicants that choose to withdraw from the application process their entire application fee minus any processing fee. Refunds are applicable to fees for the following:

9.1.a. An Administrator-in-Training (AIT) application;

9.1.b. A licensure examination application; and

9.1.c. A reciprocity application.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 21-1-4.3.2; 21-1-5.2.1, 5.2.3, 5.4.3, 5.5.2, 5.6.2; 21-1-7.1.

Type of Rule: Legislative Interpretive Procedural

Agency: Nursing Home Administrators Licensing Board

Address: 5303 Kensington Drive, Cross Lanes, WV 25313 ATTN: Alberta Slack

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	N/A	N/A	N/A	N/A	N/A
PERSONAL SERVICES	N/A	N/A	N/A	N/A	N/A
CURRENT EXPENSE	N/A	N/A	N/A	N/A	N/A
REPAIRS & ALTERATIONS	N/A	N/A	N/A	N/A	N/A
EQUIPMENT	N/A	N/A	N/A	N/A	N/A
OTHER	N/A	N/A	N/A	N/A	N/A

2. Explanation of Above Estimates:

N/A

3. Objectives of These Rules:

To enable the Nursing Home Administrators Licensing Board to meet its rising expenses of operation and to fulfill its responsibilities pursuant to West Virginia Code section 30-25-1, et seq.

Rule Title: 21-1-4.3.2; 21-1-5.2.1, 5.2.3, 5.4.3, 5.5.2, 5.6.2; 21-1-7.1.

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

To enable the Nursing Home Administrators Licensing Board to avoid the risk of cost shifting to the State which can jeopardize the operating integrity of government.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: N/A

C. Economic Impact on Citizens/Public at Large.
N/A

Date: 2/18/2002

Signature of Agency Head or Authorized Representative:

W. H. Taylor, Ph.D. - CNHA
Chairperson



EMERGENCY RULE QUESTIONNAIRE

DATE: February 14, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Nursing Home Administrators Licensing Board
5303 Kensington Drive, Cross Lanes, WV 25313. Phone No. (304) 759-0722

Contact: Alberta Slack, Director
Alberta Slack

EMERGENCY RULE TITLE: 21-1-4.3.2; 21-1-5.2.1, 5.2.3, 5.4.3, 5.5.2, 5.6.2; 21-1-7.1

1. Date of filing February 20, 2002

2. Statutory authority for promulgating emergency rule:
West Virginia Code sections 30-25-7(3), 29A-3-15(a).

3. Date of filing of proposed legislative rule: February 20, 2002

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? The emergency rule amends current legislative rules.

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

Pursuant to West Virginia Code section 30-1-1a, the West Virginia legislature declares that the fundamental purpose of licensure and registration is to protect the public. The fees that the Board generate are not adequate to cover its operating expenses. Said fees are not sufficient for the Board to properly regulate nursing home administrators. As a result, the Board cannot sufficiently operate to perform its function of protecting the public. Therefore, the Board must increase its fees so that it can (see attached sheet)

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Pursuant to West Virginia Code section 30-1-1a, the West Virginia legislature declares that the fundamental purpose of licensure and registration is to protect the public. The fees that the Board generate are not adequate to cover its operating expenses. Said fees are not sufficient for the Board to properly regulate nursing home administrators. As a result, the Board cannot sufficiently operate to perform its function of protecting the public. Therefore, the Board must increase its fees so that it can (see attached sheet)

ATTACHMENT TO EMERGENCY RULE QUESTIONNAIRE

6. properly perform its duties and protect the public interest.
8. properly perform its duties and protect the public interest.

ATTACHMENT TO FISCAL NOTE

On February 7, 2002, the Department of Health and Human Resources (DHHR) transferred \$1,176.00 to the Nursing Home Administrators Licensing Board. Of the \$1,176.00, only 12¢ remains. Thus, as of February 20, 2002, the Nursing Home Administrators Licensing Board has an account balance of twelve cents (12¢). The Board receives a substantial portion of its revenue from license renewal fees. The Board sends out its notices of renewal fees on March 1. While some renewal fees are received on or about the last week of March, the majority of said renewal fees are typically received at or near the June 30 deadline. Thus, it is evident that the Board is in financial difficulty and cannot presently cover its operating expenses. Without the approval of the emergency rule filed by the Board, it is likely that the Board would have to shut down and cease to operate (it has no other way of covering its operating expenses and adequately regulating nursing home administrators).

The emergency rule that the Board has filed will potentially generate enough revenue so that it will be financially sound throughout the remainder of 2002 and, most importantly, throughout at least the first quarter of 2003. Listed below is the emergency rule's financial effect on the Board. The financial ramifications are as follows:

1. The Board maintains approximately 225-licensed nursing home administrators per year. The license renewal fee is the chief source of the Board's revenue. The emergency rule increases the license renewal fee from \$400.00 to \$600.00. As a result, this increase in the renewal fee will generate an additional **\$22,500.00** for the Board.

2. The Board issues approximately 8 emergency and temporary permits per year. The emergency rule increases the fees for emergency and temporary permits from \$200.00 to \$300.00. Accordingly, this increase in emergency permit and temporary permit fees will generate an additional

\$800.00 for the Board.

3. The Board receives approximately 14 applications for AIT permits, new licenses, and reciprocity per year. The emergency rule increases the fees for AIT permits, new licenses, and reciprocity from \$400.00 to \$600.00. Thus, this fee increase will generate an additional **\$2,800** for the Board.

4. The emergency rule, which increases specific fees charged by the Board, will provide the Board with approximately **\$26,100** (**\$22,500 + \$800 + \$2,800**) in additional revenue so that it can sufficiently operate and perform its statutorily-mandated functions of protecting the public.