

"Proposed changes in rules for the WV Nursing Home Administrators Licensing Board are for the purposes of Clarification, added utility, and increased harmony with statutes as compared with existing rules."

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations of the Nursing Home Administrators Licensing Board

Type of Rule: Legislative Interpretive Procedural

Agency WV Nursing Home Administrators Licensing Board

Address 236 Capitol Street

Charleston, West Virginia 25301

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	N/A	N/A	N/A	N/A	N/A
CURRENT EXPENSE	N/A				
REPAIRS & ALTERNATIONS	N/A				
EQUIPMENT	N/A				
OTHER					

2. Explanation of above estimates:

3. Objectives of these rules:

Rule Title: Rules and Regulations of the Nursing Home Administrators Licensing Board

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

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: 7/8/93

Signature of Agency Head or Authorized Representative

Alberta S. Buckett

FILED

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TITLE 21 OFFICE OF WEST VIRGINIA
LEGISLATIVE RULES SECRETARY OF STATE
WEST VIRGINIA NURSING HOME ADMINISTRATORS LICENSING BOARD

SERIES 1
NURSING HOME ADMINISTRATORS

&21-1-1. General.

1.1. SCOPE. -- These rules establish the requirements for licensing as a Nursing Home Administrator.

1.2.. Authority. -- W. Va. Code &30-25

1.3. Filing Date. -- May 7, 1986

1.4. Effective Date. -- May 10, 1986

1.5. Revision Date --
&21-1-2. Definitions.

Whenever used in these Rules and Regulations, unless the context or subject matter requires a different meaning, the following terms shall have their respective meanings:

2.1. "Applicant" means the person who submits an application for license or permit pursuant to these Rules and Regulations.

2.2. "Board" means the West Virginia Nursing Home Administrators Licensing Board as created in article twenty-five, chapter thirty, Code of West Virginia, 1931, as amended.

2.3. "Nursing Home Administrator" means an individual responsible for planning, organizing, directing and controlling a nursing home, or who in fact performs such functions, whether or not such individual has an ownership interest in the nursing home and whether or not such functions are shared with one or more persons, and who has been licensed as such by the Board in accordance with the provisions of these Rules and Regulations.

No person shall be or act as a nursing home administrator, except as provided by section nine, article twenty-five, chapter thirty, Code of West Virginia, 1931, as amended unless he is a holder of a currently valid license or permit issued pursuant to these Rules and Regulations.

2.4. "Person" means an individual and does not include any firm, partnership, corporation or association.

2.5. "Nursing Home" means a facility licensed as such by the West Virginia Department of Health and Human Resources

2.6. "Practice of Nursing Home Administrator" 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. "Nursing Home Administrator-In-Training" means an individual registered as such with the Board, under Section 4.3 of these Rules and Regulations.

2.8. "License" means the document issued by the West Virginia Nursing Home Administrators Licensing Board and constitutes the authority to perform functions of a nursing home administrator as defined and directed in these Rules and Regulations.

2.9. "Violation" means failure to comply with the licensing law or any provision of these regulations.

§21-1-3. Examinations.

3.1. Scheduling of examinations and reexaminations.

3.1.1. The Board may recommend the subjects of examination of applicants for license as a nursing home administrator and the scope, content, form and character of such

examination which in any examination shall be the same for all candidates.

3.1.2. Examinations shall be held at least twice a year — "April and October"

Applicants shall meet all requirements prior to taking the examination as specified in these Rules and Regulations.

Applicants will be notified by mail of the date, time and place of examination. Applicants will be permitted to take the test three (3) times. If failed on the third examination, the applicant must appear before the Board and present evidence of further education before he is considered eligible for

reexamination. Applicants may take the state test as many times as needed in order to pass.

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

3.1.4. The cost of the initial examination and reexamination for license as a nursing home administrator shall be included in the initial fee. § 5-2.1.?

3.2. Pre-examination requirements:

3.2.1. No person shall be admitted to or be permitted to take an examination for licensure as a nursing home administrator unless he shall have first submitted thirty (30) days prior to the examination day, an application for Board approval, which shall be considered an application for license and also for examination and qualification. Such application shall be in writing on forms provided therefor by the Board and shall have furnished evidence satisfactory to the Board that the applicant is:

(a) Over twenty-one (21) years of age;

(b) A citizen of the United States;

(c) Of good moral character; and

(d) Suitable and fit to be licensed and to practice as a nursing home administrator. Such evidence of fitness and suitability shall be submitted directly to the Board by a licensed physician on forms provided by the Board and shall include, among other things, evidence of the:

(1) Absence of physical impairments to perform the duties of a nursing home administrator, which include good health and freedom from contagious disease;

(2) 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.

(e) The Board shall obtain letters of satisfactory performance covering at least the calendar year preceding the date of application from employers, including governing boards, or institutions and/or the agency administering Title 19, and/or appropriate professional societies relating to the applicants ability to:

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

(2) Assume responsibilities for the administration of a nursing home as evidenced by prior accredited activities and evaluations of prior services;

(3) Relate physical, psychological, spiritual,

emotional and social needs of ill and/or aged individuals to nursing home administration and create the compassionate climate necessary to meet the needs of the patients therein.

(f) In addition to the completion of high school or secondary school education, he shall have successfully completed one (1) of the following: § 3.4.13

(1) A course of study in a nonhealth administration field and been awarded a baccalaureate degree therefore, ^{will} and ^{Require Completion of} shall ~~have completed~~ a one (1) year Administrator-In-Training (AIT) program as specified in Section 4.3 of these regulations. If the person 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, etc. for a period of three (3) years, or has worked in a related long-term care health field such as state regulatory department for a minimum of five (5) years, the Board shall be entitled to consider waiver in the Administrator-In-Training program and approve the applicant to take examinations (national and state leading to licensure as a nursing home administrator.

(2) A course of study for and been awarded a baccalaureate degree in Nursing Home Administration, Hospital Administration, or in a related health administration field, and at least (1000) hours experience in an administrative position in a long term care setting. A related health

administration field will be defined as nursing, pharmacology, medical doctor, doctor of osteopathic medicine, social worker with a concentration in gerontology, psychology, sociology, etc. When a person has an approved degree, he/she must verify with the Board a minimum of twelve (12) college hours were earned in subjects specifically designated as health care management and/or administration. To do so will allow the Board flexibility to consider waiver of part or all of the AIT program prior to approval of the applicant to take examinations (national/state) leading to licensure as a Nursing Home Administrator. Inability to produce documentation will require completion of an Administrator-In Training program as specified in Section 4.3 of these regulations.

3.2.2. 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, shall not be admitted to, or be permitted to take the examination provided for herein, ~~unless he shall first submit to the Board a certificate of good conduct granted by the West Virginia Board of Probation and Parole, in the case of a conviction in any jurisdiction wherein the laws do not provide for any issuance of a certificate of good conduct, and equivalent written statement or document must be submitted.~~ A criminal identification Bureau Report will be requested by the Board from the State Department of Public Safety on all applicants for Administrator Licensing.

3.2.3. The basic requirements for suitability set forth

herein are to be considered minimal and may not be waived.

3.2.4. The Board may designate a time and place at which an applicant may be required to present himself for inquiry as to his suitability as provided for herein.

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 disqualification and the reasons thereof and of his right to a hearing within thirty (30) days. § 10.03

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 application within thirty (30) days of receipt of notification of disqualification.

3.3.3. Where an applicant for examination has not met preexamination requirements, he may submit a new application for qualification for examination: provided, that he shall be required to meet the requirements for licensing as shall be in force at the time of such reapplication.

3.4. Subjects for ^{NAT. ORIG.} examination.

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

~~(a) Applicable standards of environmental health and safety~~

(a) Resident Care Management

1. Task: Plan, implement, and evaluate nursing services to maximize residents' health potential.

2. Task: Plan, implement, and evaluate social service programs to meet residents' psychological and social needs and residents' rights.

3. Task: Plan, implement, and evaluate the food service program to meet the nutritional needs of patients.

4. Task: Plan, implement, and evaluate medical services to meet residents' medical care needs.

5. Task: Plan, implement, and evaluate therapeutic recreational and activity programs to meet the needs, wants and interest of residents.

6. Task: Plan, implement, and evaluate a medical records program for resident care to meet documentation requirements.

7. Task: plan, implement, and evaluate a pharmaceutical program to support medical care for residents.

8. Task: Plan, implement, and evaluate a pharmaceutical program to support medical care for residents.

9. Task: Monitor and evaluate residents' satisfaction with quality of care and quality of life through communications with residents and/or their representatives.

(b) Personnel Management

1. Task: Establish a work environment to foster communication between management and all staff.

2. Task: Recruit, train, evaluate and retain individuals to provide resident care and services.

3. Task: Plan, implement, and evaluate personnel policies.

4. Task: Plan, implement, and evaluate employee health and safety programs.

(c) Financial Management

1. Task: Develop and manage a budget for the facility to allocate fiscal resources.

2. Task: Develop systems to monitor financial performance.

3. Task: Develop and manage a financial audit and reporting system.

(d) Environmental Management

1. Task: Plan, implement, and evaluate a system for maintaining and improving buildings, grounds and equipment.
2. Task: Plan, implement, and evaluate a program that provides a clean, attractive and homelike environment for residents, staff and visitors.
3. Task: Plan, implement and evaluate an overall safety program which will ensure the health, welfare and safety of residents, staff and visitors.
4. Task: Plan, implement and evaluate fire, disaster, and emergency programs to protect the safety and welfare of residents, staff and property.

(e) Regulatory Management

1. Task: Plan, implement and evaluate policies and procedures to maintain compliance with laws and regulations.
2. Task: Plan, implement, monitor and evaluate policies and procedures to maintain compliance with directives of governing entities (e.g. Board of Directors).

(f) Organizational Management

1. Task: Observe, monitor and evaluate outcomes of all programs, policies and procedures of the facility to ensure effectiveness.
2. Task: Develop and monitor a process for communicating with residents, families, staff, volunteers and governing entities.
3. Task: Implement, monitor and ensure the integration of residents' rights with all aspects of the facility's operations.
4. Task: Plan, implement and evaluate a risk management program.
5. Task: Plan, implement and evaluate a program that informs residents and community of the services offered.
6. Task: Plan, implement and promote integration between the facility and other community resources including educational institutions.

3.5. Subjects for State examination.

3.5.1. Every applicant for license as a nursing home administrator after meeting the requirements for qualification for license and examination as set forth in these Rules and Regulations shall successfully pass a written examination which may include, but not limited to, the following subjects:

- ~~(a) Physical Equipment and Facilities~~
- ~~(b) Facility Governance and Management~~
- ~~(c) General Health and Safety~~
- ~~(d) General Residents Rights, Policies and Procedures~~
- ~~(e) Medical and Dental Service~~
- ~~(f) Nursing Service~~
- ~~(g) Dietetic Service~~
- ~~(h) Pharmaceutical Service~~
- ~~(i) Social Services and Activities~~
- ~~(j) Plans for Care and Medical Records~~

All Deleted

(4) Motivation ...

(5) Separation reaction

Principles of medical care.

(1) Anatomy and physiology

(2) Psychology

(3) Disease recognition and prevention

(4) Disease processes

(5) Nutrition

(6) Aging process

(7) Medical terminology

(8) Material medica (pharmacology)

(9) Medical social service

(10) Utilization review

(11) Professional and medical ethics

Personal and social care

(1) Resident and patient care planning

(2) Activity programming

(A) Patient participation

(B) Recreation

(3) Environmental adjustment - Interrelationship

between patient and

(A) Patient

(B) Staff (staff sensitivity to patient needs

as a therapeutic)

(C) Family and friends

(D) Administrator

(E) Management (self-government patient

council)

- (4) Rehabilitation and restorative activities
 - (A) Training in activities of daily living
 - (B) Techniques of group therapy
- (5) Interdisciplinary interpretation of patients

care to

- (A) The patient
- (B) The staff
- (C) The family

Therapeutic and supportive care and services in long-term care

- (1) Individual care planning as it embraces all therapeutic care and supportive services
- (2) Meaningful observations of patient behavior as related to total care
- (3) Interdisciplinary evaluation and revision of patient care plans and procedures
- (4) Unique aspects and requirements of geriatric patient care
- (5) Professional staff interrelationships with patient's physician
- (6) Professional ethics and conduct
- (7) Rehabilitative and remotivational role of individual therapeutic and supportive services
- (8) Psychological, social and religious needs, in addition to physical needs of the patients
- (9) Needs for dental services

All Deleted

All Deleted

(d) Departmental organization and management

(1) Criteria for coordinating establishment of departmental and unit objectives

(2) Reporting and accountability of individual departments to administrator

(3) Criteria for departmental evaluation (nursing, food service, therapeutic service, maintenance, housekeeping)

(4) Techniques of providing adequate professional, therapeutic, supportive and administrative services

(5) The following departments may be used in relating matters of organization and management:

(A) Nursing

(B) Housekeeping

(C) Dietary

(D) Laundry

(E) Pharmaceutical services

(F) Social services

(G) Business office

(H) Recreation

(I) Medical records

(J) Admitting

(K) Physical therapy

(L) Occupational therapy

(M) Medical and dental services

(N) Laboratories

(O) X ray

- ~~(P) Maintenance~~
- ~~(e) Community interrelationships~~
 - ~~(1) Community medical care, rehabilitative and social services resources~~
 - ~~(2) Other community resources~~
 - ~~(A) Religious institutions~~
 - ~~(B) Schools~~
 - ~~(C) Civic and voluntary service agencies~~
 - ~~(D) Government agencies~~
 - ~~(3) Third party payment organizations~~
 - ~~(4) Comprehensive health planning agencies~~
 - ~~(5) Volunteers and auxiliaries~~
 - ~~(F) Basic terminology~~
- ~~(g) Pertinent Federal, state and local health and safety laws and rules applicable to nursing homes and nursing home administration~~

3.4.2. Subscores will be reported in

- ~~(a) Institutional management (including b and d above)~~
- ~~(b) Patient care administration (including c above)~~
- ~~(c) Organization of community health services (including a, e and f above)~~
- ~~(d) State and local laws and regulations (including g above)~~

&21-1-4. Education, training and experience.

4.1. Registration of accredited educational institutions and courses of study.

4.1.1. Any courses of study offered by an accredited educational institution for the purpose of qualifying applicants for licensure or renewal thereof 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 must cover those subjects contained on the written examination as [provided for in section section 3.4 of these rules.

4.1.2. Lists and information on all courses of study registered with and approved by the Board for the purpose of qualifying applicants for licensure as nursing home administrator will be made available to all administrators and interested persons.

4.2. Registration of continuing education programs.

4.2.1. On and after June 30, ¹⁹⁹⁴~~1992~~, every licensed administrator must receive at least ~~thirty~~ ⁽²⁰⁾ ~~(30)~~ clock hours of continuing education every two (2) years.

4.2.2. The Board ^{may} ~~must~~ approve ~~all~~ programs for continuing education, ^{However} ~~if~~ the Board ~~elects~~ ^{has elected to utilize The National} ~~it may refer a program to the~~ ^{Continuing Education Review Service,} ~~state trade association for its opinion or approval, subject to~~ the Board's final approval.

4.2.3. Any organization wishing to have a program approved must submit a description of the program to the ^{National} ~~Board~~ ^{Association of Boards of Examiners}. ^{Forty Five (45) days} Application should be submitted at least ~~three~~ ⁽³⁾ ~~months~~ in advance of the scheduled date of the program. ^{you may request} ~~Program approval forms from the NAB or the Board office,~~

4.3. Practical training and experience (one(1) year administrator-in-training program.)

4.3.1. Every candidate for an administrator-in-training permit prior to entering the one (1) year nursing home administrator-in-training internship for the purpose of obtaining practical training and experience as required of all new applicants for administrator license except as otherwise waived according to Paragraph 3.2.1(f) of these rules, shall make application for the administrator-in-training permit on a form prescribed by the Board, and submit a fee of fifty dollars (\$100.00), payable by certified check or money order to the West Virginia Nursing Home Administrators Licensing Board.

4.3.2. An application for an administrator-in-training permit shall not be approved unless the applicant submits evidence satisfactory to the Board that he meets all preexamination requirements under these rules except for the internship and:

(a) That such 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, approved by the Board as a preceptor, and who has accepted the responsibility of training such applicant.

(b) That such training is of a grade and character satisfactory to the Board.

(c) That such training is to be obtained in a duly licensed nursing home which has been approved by the Board.

(d) That such training is to be served during eight (8) consecutive hours daily, except for regular days off, with a

minimum of forty (40) hours weekly.

(e) That the trainee agreement form provided by the Board be signed by the nursing home administrator-in-training and the supervising nursing home administrator and submitted to the Board for approval.

(f) That the nursing home administrator-in-training has no outside employment during training hours or thereafter unless such employment is known of and approved by the preceptor.

(g) That alternating and rotating shifts of eight (8) working hours may be approved by the Board as being acceptable upon request: Provided, that at least fifty percent (50%) of the training hours will be served between the hours of seven a.m. and ten 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 is employed.

(b) That the preceptor provide full-time supervision for the administrator-in-training and that such supervision be provided in the facility where the trainee is employed.

4.3.3. Progress report.

(a) Every preceptor of every administrator-in-training shall file quarterly forms provided by the Board and shall set forth an accurate record of the duties performed by the administrator-in-training during the period covered by such report.

(b) Every report filed by the preceptor of the nursing home administrator-in-training shall be approved and

signed by the preceptor and by the administrator-in-training.

(c) If a preceptor of a nursing home administrator-in-training fails to file reports quarterly for a period of two (2) years from the date of issuance of the in-training permit, the administrator-in-training shall be deemed to have abandoned his practical training and experience. In the event he shall there-after seek to qualify for a nursing home administrator license, he shall be considered a new applicant with no portion of training completed, and shall be required as such new applicant, to meet requirements for qualification for training, examination and license as may exist at the time of such new application.

4.3.4. A nursing home administrator-in training may be allowed two (2) weeks leave for compulsory military training, vacation or sick leave each year without loss of credit for his required practical training and experience.

4.3.5. Discontinuance of internship as a nursing home administrator-in-training in a nursing home from which he is a registered shall be reported to the Board by the nursing home administrator and the trainee within ~~ten (10)~~ ^{THIRTY (30)} days after such discontinuance.

4.3.6. Change of supervision of the nursing home administrator-in-training in any nursing home shall be reported to the Board in writing by the preceptor and the trainee within ten (10) days after the change of such supervision. The new administrator of the facility, if willing to continue the training program of the administrator-in-training, must obtain

Board approval for preceptorship.

4.3.7. Practical training and experience shall be set forth by guidelines of the Board.

4.3.8. Any person who was a duly authorized nursing home administrator-in-training whose training and experience shall have been interrupted by service in the Armed Forces of the United States, shall be permitted to resume his training and experience at any time within one (1) year after the date of his honorable discharge from active service.

4.3.9. The requirement of internship as administrator-in-training herein provided for shall not apply to any person who has completed a course of study for a master or baccalaureate degree in nursing home administration, hospital administration or in a related health administration field, as approved by the Board and who has been awarded such degree from an accredited institution of higher learning (3.2.1(f) of these rules.

4.3.10. The period of internship shall last for a period of not ~~less~~ ^{more} than one (1) year and shall be under the supervision of a preceptor who has been approved by the Board.

4.3.11. In the event that a preceptor will be found by the Board to have failed to provide the trainee with the opportunity to adequately train himself under 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 such period of time as the Board will prescribe.

4.3.12. Following completion of the administrator-in-training program, and precedent to sitting 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.

§21-1-5. Licenses.

5.1. Qualifications for licenses.

5.1.1. To be eligible for a license as a nursing home administrator a person must:

(a) Meet all preexamination requirements as set forth in Section 3.2 of these Rules and Regulations, as well as meet all other applicable Rules and Regulations.

(b) Pass the examination prescribed by the Board in the subject of nursing home administration.

5.1.2. Any person who holds a license or certificate as a nursing home administrator issued by any other state, the requirements for which license or certificate are found by the Board to be substantially equivalent to those provided in these Rules and Regulations may be granted a license if the applicant has obtained a passing ^{scored} score of seventy-five percent (75%) or above on the national examination, if the applicant satisfactorily passes the examination on State Laws and Regulations applicable to nursing homes and nursing home administrators and if he meets all of the other requirements for licensure in West Virginia.

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

5.2.1. Any applicant for any such administrator license shall submit an application therefor at such time, in such manner, on such forms and containing such information as the Board may from time to time by reasonable Rules and Regulations prescribe, and pay to the Board a license fee of Two hundred dollars(\$200) in the form of a certified check or money order which fee, minus any costs incurred by the Board, shall be returned to the applicant if he is denied a license. ^{"i.e. - processing fee"} 3 3.143

5.2.2. Whenever the Board finds that an applicant meets all of the requirements of these Rules and Regulations for a license as a nursing home administrator, it shall forthwith issue to him such license. If the Board finds the applicant does not meet requirements, he must be contacted in writing and given reasons for denial.

5.2.3. The license shall be valid for a period ending on June 30 next ensuing 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 one hundred dollars (\$100) 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 for an original application for license, or for failure to provide proof of satisfactory attendance and completion of relevant continuing education as specified in Section 4.2 of these regulations.

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

5.2.5. Only an individual who has qualified as a licensed nursing home administrator and who holds a valid current license certificate pursuant to the provisions of these Rules and Regulations shall have the right and privilege of using the title "Nursing Home Administrator" and have the right and privilege of using the abbreviation of "N.H.A." after his name. No other person shall use or shall be designated by such title or such abbreviation or any other words, letters, sign card or device tending to, or intended to, indicate that such person is a licensed nursing home administrator.

5.2.6. An individual who is a holder of an emergency permit or of an administrator-in-training permit shall not be considered as meeting the requirements for license as a nursing home administrator and, therefore, shall not have the right and privilege of using the title "Nursing Home Administrator" or the abbreviation of "N.H.A."

5.3. License Restrictions.

5.3.1. In order to retain a license as a nursing home administrator the following restrictions apply:

(a) A licensed nursing home administrator shall not administer or act to be administrator of more than two (2) nursing homes at one time. An administrator may serve two (2) facilities which are within reasonable proximity ^{(Thirty (30) minutes driving time)} ~~Provided~~, that such administrator is not administering more than a total combined one hundred twenty (120) beds.

(b) The administrator of two (2) facilities shall average not less than twenty (20) hours per week at each

facility, on condition that he or she has a competent and experienced assistant at each facility. Each period of service is to be documented. Documentation must be available upon Board request.

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

(d) Any administrator who is also director of nursing services or who has any other dual capacity in the same nursing home cannot serve in any other capacity in any other nursing home regardless of whether or not the second home is within reasonable proximity without prior Board approval.

(e) The nursing home administrator, upon receipt of a license, shall be responsible for any nursing home which he administers meeting all applicable state and federal laws and regulations.

5.4. Emergency permit.

5.4.1. If a licensed nursing home administrator dies or is unable to continue as such 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 to whom the Board may immediately issue an emergency permit if it finds such appointment will not endanger

5.4.2. Such an emergency permit shall not exceed six (6) months and shall not be renewable.

5.4.3. The fee for an emergency permit shall be one hundred dollars (100) and shall be submitted in the form of a certified check or money order.

5.5.1. A temporary permit may be issued for a period of ninety (90) days, to an applicant for a reciprocity ^{endorsement} license who has accepted employment in the State of West Virginia, but who must wait for the Board to meet to act on his application. The temporary permit may be renewed at the discretion of the Board.

5.5.2. The Fee for a temporary permit shall be one hundred dollars (\$100) and shall be submitted in the form of a certified check or money order.

5.6. Administrator-in-training.

5.6.1. Administrator-in-training permits shall be issued by the Board as outlined in Section 4.3 of these Rules and Regulations.

5.6.2. The fee for an administrator-in-training permit shall be one hundred dollars (\$100) 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 license certificate and/or duplicate copies thereof shall be returned by the licensee to the West Virginia Nursing Home Administrators Licensing Board immediately upon its

revocation and/or request for any other cause.

&21-1-6. Suspension or revocation, hearings 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 these Rules and Regulations.

6.1.2. The Board shall suspend or revoke any license or permit when it finds the holder thereof has

(a) Obtained a license or permit by means of fraud or deceit; or

(b) Failed or refused to comply with the provisions of these Rules and Regulations, or with provisions of articles five-c and five-d, chapter sixteen of the Code of West Virginia, as amended.

6.1.3. The Board shall also suspend or revoke any license or permit if it finds the existence of any grounds which would justify the denial of an application for such license or permit if application were then being made for it.

6.2. Complaints and hearing procedures.

6.2.1. Complaints.

(a) Any person, public officer, association or the Board may register a complaint against any licensee, administrator-in-training or holder of an emergency or temporary permit for any of the reasons specified in Section 6.1 of these rules.

Such complaint shall be in writing and duly verified and shall be submitted to the Board.

6.2.2. Preliminary hearings.

(a) The Board, or any person or persons appointed by it for the said purpose, may hold a preliminary hearing to determine whether a formal hearing on the charges is necessary. The Board shall give the person charged written notice of the date, time and place of the preliminary hearing.

(b) The Board may dismiss the charges and take no action thereon, by formal hearing or otherwise, in which event the charges and the order dismissing the charges shall be filed and made a part of its record. If the Board does not dismiss the charges, a formal hearing shall be held in accordance with Section 6.3 of these rules.

6.3. Procedures for hearing.

6.3.1. Whenever the Board shall deny an application for any original or renewal license or deny an application for an emergency permit or shall suspend or revoke any license or permit it shall make an enter an order to that effect and serve a copy thereof on the applicant or licensee, as the case may be, by certified mail, return receipt requested. Such order shall state grounds for the action taken and shall require that any license or permit suspended or revoked thereby shall be returned to the Board by the holder within twenty (20) days after receipt of said order.

Procedural Rules, effective _____ will be
6.3.2. ~~Any person adversely affected by any such order shall be entitled to a hearing thereon (as to all issues not~~
Followed in a Judicating Contested Case hearings before
the Board.

~~excluded from the definition of a "Contested Case" set forth in article one, chapter twenty-nine-a of the Code of West Virginia) if, within twenty (20) days after receipt of a copy thereof, he files with the Board a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a license or permit or denying an application for a renewal license.~~

~~6.3.3. Upon receipt of a written demand for such hearing, the Board shall set a time and place therefor not less than ten (10) days and not more than thirty (30) days thereafter. Any scheduled hearing may be continued by the Board upon its own motion or for good cause shown by the person demanding the hearing.~~

³
6.3.~~4~~ All of the pertinent provisions of article five, chapter twenty-nine-a of the Code of West Virginia, shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like affect as if the provisions of said article given were set forth in these Rules and Regulations.

~~6.3.5. Any such hearing shall be conducted by a quorum of the Board. For the purpose of conducting any such hearing any member of the Board shall have the power and authority to issue subpoenas and sub-subpoenas duces tecum which shall be issued and served within the time, for the fee and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a.~~

~~6.3.6. At any such hearing, the person who demanded the~~

~~same may represent himself or be represented by an attorney at law admitted to practice before any circuit court of this State. Upon request by the Board, it shall be represented at any such hearing by the attorney general or his assistants without additional compensation.~~

~~6.3.7. After any such hearing and consideration of all of the testimony, evidence and record in the case, the Board shall render its decision in writing. The written decision of the Board shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine a of the Code of West Virginia, and a copy of such decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the person demanding such hearing, and his attorney or record, if any.~~

6.3.4.

~~(a)~~ Upon conclusion of the hearing, the Board may revoke the license of the accused, or suspend such license for a fixed period, or reprimand, or take such other disciplinary action or dismiss the charges.

6.35.

~~(b)~~ An order of suspension made by the Board may contain such provisions as to reinstatement of the license as the Board may direct.

6.3.6.

~~(c)~~ The Board, in its discretion, may direct a rehearing or take additional evidence, and may rescind or affirm the prior determination after such rehearing, but nothing in this section shall preclude appropriate relief under and pursuant to the laws providing for the review of administrative determination

by the courts of the state.

6.3.⁷~~8~~. The decision of the Board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of Section 6.4 of these Rules and Regulations.

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

6.4.1. Any person adversely affected by a decision of the Board rendered after a hearing held in accordance with the provisions of Section 6.3 of these Rules and Regulations, shall be entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of the Code of West Virginia shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in these Rules and Regulations.

6.4.2. The judgement of the circuit court shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of the Code of West Virginia.

&21-1-7. Reciprocity/Endorsement

7.1. The Board in its discretion, and otherwise subject to the law pertaining to the licensing of nursing home administrators prescribing the qualifications for a nursing home administrator license, may endorse a nursing home administrator license issued by the proper authorities of any other state upon payment of a fee of two hundred dollars (\$200) and upon submission of evidence satisfactory to the Board:

(a) that the applicant is a certified administrator in good standing with the American College of Health Care Administrators (ACHCA). If so, sub-points b,c,d,e, will be waived.

(a) That such other state maintains a system and standard of qualification and examination for a nursing home administrator license, which are substantially equivalent to those required in West Virginia.

(b) That such other state gives similar recognition and reciprocity/^{endorsement} to nursing home administrator licenses of West Virginia.

(c) That such applicant for reciprocity/^{endorsement} holds a ~~valid~~^{current} license as a nursing home administrator which has not been revoked or suspended as such in each State from which he has ever received a nursing home administrator license or reciprocal endorsement.

(e) For reciprocity/Endorsee who was licensed in another State prior to 5/10/86, he/she be considered for "grand fathering" when one or a combination of these factors is met.

1. continuous licensure from another State (s) predating 5/10/86.

2. Current certification by the American College of Health Care Administrators (ACHCA).

3. Any other request for justification deemed appropriate by the WV Nursing Home Administrators Licensing Board (i.e., continuing education credits earned in previous years required "home study courses, etc.

&21-1-8. Restoration and reinstatement of licenses.

8.1. Restoration after revocation.

8.1.1. A License may be restored after revocation by the Board in its discretion upon submission of evidence satisfactory to the Board that the applicant for such restoration of license has removed the disability. The requirements of Section 3.2.2 of these Rules and Regulations shall be applicable to applicants for license who have been convicted of a crime.

8.1.2. Upon such application for restoration of a license, the Board, in its discretion may grant the applicant a formal hearing upon notice.

8.1.3. If a conviction be subsequently reversed on appeal and the accused acquitted or discharged, his license shall become again operative from the date of such acquittal or discharge.

8.2. Restoration after lapse.

8.2.1. A license which has lapsed can be reinstated at the discretion of the Board during the first year immediately following the expiration date of a valid permanent administrator license. The administrator in question must submit a formal request as well as an application for license along with the proper fee and meet the requirements for continuing education hours.

8.2.2. After one (1) year from the expiration date of his license, the administrator in question will be considered a new applicant and will be subject to all applicable regulations.

9.1. These Rules and Regulations shall be supplemental to the law providing for the licensing of nursing home administrators

and shall have the force and effect of the law.

9.2. Every rule, regulation, order and directive adopted by the Board shall state the date on which it takes effect and copy thereof signed by the chairman of the Board and the secretary of the Board and shall be filed as a public record in the office of the Board as may be required by law.

9.3. These Rules and Regulations are intended to be consistent with the applicable Federal and State Law and shall be modified, whenever necessary, to achieve such consistency.

9.4. In the event that any provision of these Rules and Regulations is declared unconstitutional or invalid, or the application thereof to any person or circumstances is held unconstitutional or invalid, the applicability of such provision to other persons and circumstances and the constitutionality or validity of every other provision of these Rules and Regulations shall not be affected thereby.

9.5. These Rules and Regulations shall not affect any pending action or proceedings, civil or criminal, but the same may be prosecuted or defended in the same manner and with the same effect as though these Rules and Regulations had not been promulgated.

9.6. Amendments to these Rules and Regulations shall be made *in accordance with provisions found in article 3-1a (29A-3-1a), Chapter Twenty-Nine -A of The Code.* ~~only at regularly called meeting of the Board by a majority vote. No amendment shall be acted upon unless written notice had been given to the members of the Board that such amendment is to be acted upon at a particular meeting of the Board.~~

9.7. In addition to the above, the rules of parliamentary

procedure as laid down in "Roberts Rules of Order, Revised" shall govern all meetings of the Board.

10.0 Fees

10.1. All applicants that choose to withdraw will be refunded entire application fee minus any processing fee.

This will be applicable to the following:

1. Emergency Permit
2. Temporary Permit
3. AIT Application
4. Licensure Examination Application
5. Reciprocity/Endorsement Application