

WEST VIRGINIA  
RULES AND REGULATIONS  
for  
LICENSING  
of  
NURSING HOME ADMINISTRATORS

SECRETARY OF STATE  
OFFICE  
STATE CAPITOL  
CHARLESTON, WEST VIRGINIA  
THIS DATE 4/10/74

Adopted  
June 30, 1970

Revised  
October 27, 1971  
January 24, 1974

Effective  
May 10, 1974

Filed with Secretary of State  
April 10, 1974

West Virginia Nursing Home Licensing Board  
1800 East Washington Street, Room 424  
State Capitol  
Charleston, West Virginia

Telephone 348-3221



WEST VIRGINIA NURSING HOME LICENSING BOARD  
 1800 EAST WASHINGTON STREET - ROOM 424  
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 CHARLESTON, WEST VIRGINIA 25305  
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March 22, 1974

FILED IN THE OFFICE  
 EDWARD F. HEISKELL III  
 SECRETARY OF STATE  
 THIS DATE 4/10/74

Honorable Edward F. Heiskell III  
 Secretary of State  
 State Capitol  
 Charleston, West Virginia

Dear Mr. Heiskell:

We are submitting herewith for filing in your office, as required by law, two copies of the West Virginia Rules and Regulations for Licensing of Nursing Home Administrators which is to become effective ~~April 22, 1974~~ May 10, 1974 (amg).

These are to replace regulations which were filed with your office and were effective November 28, 1971.

Sincerely yours,

John H. Neale, R. Ph.  
 Chairman

LT:mmy

Enclosure

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TABLE OF CONTENTS

	Page	
PART I - GENERAL		
A. Legal Authority-----	1	
B. Definitions-----	1	
C. General Administrator Limitations-----	2	
PART II - ADVISORY COUNCIL		
A. General Powers of Advisory Council-----	4	
B. Meetings of Advisory Council-----	4	
C. Advisory Council Officers and Duties-----	5	
PART III - EXAMINATIONS		
A. Scheduling of Examinations and Re-Examinations-----	6	
B. Pre-Examination Requirements-----	6	
C. Conditional Admission to Examination; Disqualification; Re-Examination-----	9	
D. Subjects for Examination-----	9	
PART IV - EDUCATION, TRAINING, AND EXPERIENCE		
A. Registration of Institutions and Courses of Study-----	11	
B. Practical Training and Experience (Administrator-in-Training Program)-----	11	
PART V - LICENSES		
A. Qualifications for License-----	15	
B. Issuance of License and Renewal of License and Display-----	16	
C. License-----	16	
D. Emergency Permit-----	16	
E. Administrator-in-Training Permit-----	17	
F. Lost, Mutilated, or Destroyed License-----	17	
G. Return of License-----	17	
PART VI - SUSPENSION OR REVOCATION; HEARINGS; AND JUDICIAL REVIEW		
A. Suspension or Revocation of License or Permits-----	18	
B. Procedures for Hearing-----	18	
C. Judicial Review; Appeal to Supreme Court of Appeals-----	20	
D. Complaints and Hearing Procedures for Same-----	20	
PART VII - RECIPROCITY		
A. Reciprocity-----	22	
B. Revocation of License Received by Reciprocity-----	22	
PART VIII - RESTORATION AND REINSTATEMENT OF LICENSES		
A. Restoration After Revocation-----	23	
B. Restoration After Lapse-----	23	
PART IX - APPLICABILITY, LEGAL EFFECT, SEPARABILITY-----		24

PART I  
GENERAL

FILED IN THE OFFICE  
EDGAR S. BRIDGEMAN III  
SECRETARY OF STATE  
THIS DATE 4/10/74

SECTION A - LEGAL AUTHORITY

- 101.1 The rules and regulations herein contained constitute, comprise, and shall be known as the West Virginia Rules and Regulations for Licensing of Nursing Home Administrators, and are hereby promulgated pursuant to the authority granted to, and imposed upon the West Virginia Nursing Home Licensing Board, as recommended by the West Virginia Nursing Home Administrators Advisory Council, under and pursuant to the provisions of Chapter 16, Article 5D, Code of West Virginia, 1931, as amended.

SECTION B - 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:

- 102.1 Applicant shall mean the person who submits an application for license or permit pursuant to these rules and regulations.
- 102.2 Board means the West Virginia Nursing Home Licensing Board as created in Chapter 16, Article 5C, Code of West Virginia, 1931, as amended.
- 102.3 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 5D, Chapter 16, 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.

- 102.4 Council means the State Nursing Home Administrators Advisory Council.
- 102.5 Person means an individual and does not include any firm, partnership, corporation or association.

- 102.6 Nursing Home means a facility licensed as such by the West Virginia Nursing Home Licensing Board
- 102.7 Practice of Nursing Home Administration means the 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.
- 102.8 Nursing Home Administrator-in-Training means an individual registered as such with the Board, under and pursuant to these rules and regulations.
- 102.9 License means the document issued by the West Virginia Nursing Home Licensing Board and constitutes the authority to perform functions of a nursing home administrator as defined and directed in these rules and regulations.
- 102.10 Violations means failure to comply with the licensing law or any provision of these regulations.

**SECTION C - GENERAL ADMINISTRATOR LIMITATIONS**

- 103.1 A licensed nursing home administrator shall not administer or act or be administrator of more than two nursing homes at one time. An administrator may serve two facilities which are within reasonable proximity provided that such administrator is not administering more than a total combined 100 beds.
- 103.2 The administrator of two facilities shall spend not less than 16 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.
- 103.3 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 twenty-five beds or less.
- 103.4 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.

- 103.5 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.
- 103.6 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."

PART II  
ADVISORY COUNCIL

SECTION A - GENERAL POWERS OF ADVISORY COUNCIL

At the request of the Board, or upon its own initiative, the Council may:

- 201.1 Consider any matters relating to the practice of nursing home administration including any matter pertaining to the administration and enforcement of these rules and regulations and advise the Board thereon;
- 201.2 Recommend the enactment or amendment of laws as may be deemed necessary in respect to the practice of nursing home administration;
- 201.3 Recommend to the Board the promulgation of rules and regulations not inconsistent with law, as may be deemed necessary, and the amendment or repeal thereof;
- 201.4 Recommend to the Board the commencement of an investigation into improper practices of licenses;
- 201.5 Recommend to the Governor removal of any member of the Council for misconduct, incapacity, incompetence, or neglect of duty, after such member has been provided with a written statement of the charges and an opportunity to be heard thereon;
- 201.6 At the request of the Board, the Advisory Council shall consider any matter relating to the licensing of nursing home administrators and advise the Board thereon;
- 201.7 The Council shall consider any professional and/or technical matter concerning the licensing of nursing home administrators and advise the Board thereon.

SECTION B - MEETINGS OF THE ADVISORY COUNCIL

- 202.1 The Advisory Council shall convene at such time as it is directed, (1) by call of the chairman; (2) in response to written requests from a majority of Council members directed to the chairman of the Council by certified mail, return receipt requested, or (3) by the request of the Chairman of the Board. A quorum of the Advisory Council shall consist of not less than three members.

- 202.2 Any call of a meeting of the Advisory Council shall be made in writing, mailed to the respective members of the Council by registered mail, return receipt requested.

**SECTION C - ADVISORY COUNCIL OFFICERS AND DUTIES**

- 203.1 The Advisory Council shall elect annually from among its members a chairman and vice-chairman. The chairman shall designate a secretary who shall be a member of the Advisory Council.
- 203.2 The chairman shall preside at all meetings of the Advisory Council, and shall sign all official documents of the Council. In the absence of the chairman, the vice-chairman shall preside at meetings, and perform all duties usually performed by the chairman.

PART III  
EXAMINATIONS

SECTION A - SCHEDULING OF EXAMINATIONS AND RE-EXAMINATIONS

- 301.1 The Advisory Council may recommend the subjects of examination of applicants for license as a nursing home administrator, and the scope, content, form, and character of such examinations which in any examination shall be the same for all candidates.
- 301.2 Examinations shall be held at least twice a year. Applicants shall meet all requirements pursuant to taking the examination as specified in these rules and regulations.
- 301.3 A record stating in detail the result of the examination for each candidate shall be kept by the Board as a permanent record.
- 301.4 The cost of the initial examination and re-examination for license as a nursing home administrator shall be paid for by the applicant for license over and above the licensing fee.

SECTION B - PRE-EXAMINATION REQUIREMENTS

- 302.1 No person shall be admitted to or be permitted to take an examination for license as a nursing home administrator unless he shall have first submitted 30 days prior to the examination day, an application for license which shall be considered also as the application 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
- a. that he is over twenty-one years of age,
  - b. that he is a citizen of the United States,
  - c. that he is of good moral character,
  - d. that he is 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; to 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;
  - (3) ability to understand and communicate general and technical information necessary to the administration and operation of a nursing home, (i.e., applicable health and safety regulations.);
  - (4) ability to assume responsibilities for the administration of a nursing home as evidenced by prior accredited activities and evaluation of prior services;
  - (5) ability to relate the physical, psychological, spiritual, emotional, and social needs of ill and/or aged individuals to the administration of a nursing home, including administration of a nursing home, including executives of the nursing home; and to create the compassionate climate necessary to meet the needs of the patients therein.
- e. Except that on and after January 1, 1972, in addition to completion of high school or secondary school education as herein provided he has successfully completed two years of college level study in an accredited institution of higher learning; or on or after January 1, 1980, he shall have successfully completed a course of study for and been awarded a baccalaureate degree.
- f. that a candidate for examination for license as a nursing home administrator may submit evidence satisfactory to the Board that he has obtained four years of practical experience in nursing home administration or in a related health administration area, for each year of required post-high school or post-secondary school education.
- (1) related health care administration is defined as administration practiced in one or more health related institutions. However, health care administration SHALL NOT MEAN:
    - .the administration of services to an individual,
    - .administrative services which do not have as a major component the supervision of more than one profession or discipline,

.an administrative position in which the individual has not assumed direct responsibility for and is not held accountable for his own acts.

302.2 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, or by any court of any other state 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, and file with the Board, a certificate of good conduct granted by the Board of parole, or in the case of a conviction in any jurisdiction wherein the laws do not provide for any issuance of a certificate of good conduct, an equivalent written statement or document.

A Criminal Identification Bureau Report will be requested by the Board from the State Department of Public Safety on all applicants for administrator licensing.

302.3 The following shall be considered as guidelines for the purpose of determining qualifications under paragraph 302.1-d(4) and (5):

- a. On applicants currently in the field, 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 XIX, and/or appropriate professional societies,
- b. The Board shall obtain letters of satisfactory performance regarding new applicants to the field from prior employers and/or evaluation of performance of the individual as an "administrator-in-training."

302.4 The basic requirements for suitability set forth herein are to be considered minimal and may not be waived.

302.5 The applicant shall attach to his initial application, a finished unmounted head and shoulder photograph of himself which shall not be less than two and one-half inches nor more than three inches square, which photograph shall have been taken within three months prior to the date of such application.

302.6 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.

**SECTION C - CONDITIONAL ADMISSION TO EXAMINATION; DISQUALIFICATION;  
RE-EXAMINATION**

- 303.1 The Board may conditionally admit to the examination for license as a nursing home administrator an applicant who on the date of a scheduled examination has not fully established his qualifications, if, in the judgment of the Board, it appears that he is otherwise qualified, and if he submitted such application 30 days prior to the examination as specified in paragraph 302.1 of these rules and regulations. Unless such applicant submits satisfactory evidence that he qualifies for examination within thirty days following the date of such examination the Board shall notify the applicant that he is not qualified for licensure.
- 303.2 An applicant for examination who has been disqualified shall be given written notification by the Board by certified mail, return receipt requested, of his disqualification and the reasons therefor and of his right to a hearing within 30 days.
- 303.3 An applicant for examination who has been disqualified may petition the Board in writing for a hearing and a review of his application within thirty days of receipt of notification of disqualification.
- 303.4 Where an applicant for examination has been disqualified, he may submit a new application for qualification for examination, provided however that he shall be required to meet the requirements for licensing as shall be in force at the time of such re-application.
- 303.5 An oral examination may be given by the Board to those four previously provisionally licensed nursing home administrators who have exhausted all avenues in their efforts to pass the nursing home administrator examination, but who were still unable to make a passing score. Content and form of said examination to be left to the discretion of the Board.

Such oral examination as hereinto referred shall be limited to administrators with nine or more years experience prior to July 1, 1971, who have taken and completed the HEW 100 hour educational program.

**SECTION D - SUBJECTS FOR EXAMINATION**

- 304.1 Every applicant for a 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 shall include but not be limited to the following subjects:

- a. Environmental Health and Safety
- b. General Administration
- c. Patient Care
  - Psychology of Patient Care
  - Principles of Medical Care
  - Personal and Social Care
  - Therapeutic and Supportive Care
- d. Departmental Organization and Management
- e. Community Inter-relationships
- f. Basic Terminology

- 304.2 Subscores will be reported in
- a. Administration (including b and d above)
  - b. Patient Care (including c above)
  - c. Other Factors (including a, e, and f above)

PART IV

EDUCATION, TRAINING AND EXPERIENCE

SECTION A - REGISTRATION OF INSTITUTIONS AND COURSES OF STUDY

- 401.1 Any courses of study offered by an educational institution for the purpose of qualifying applicants for licensure or renewal thereof as nursing home administrators shall first be registered with the Board by the educational institution or by the applicant for licensure.
- 401.2 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 administrators will be made available to all administrators and interested persons.

SECTION B - PRACTICAL TRAINING AND EXPERIENCE  
(One Year Administrator-In-Training Program)

- 402.1 Every candidate for an administrator-in-training permit upon entering the one 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 paragraphs 402.9 and 402.10, shall make application for the administrator-in-training permit prior to the beginning of such internship on a form prescribed by the Board.
- 402.2 An application for an administrator-in-training permit shall not be approved unless the applicant submits evidence satisfactory to the Board:
- a. that the applicant is over 21 years of age.  
(The Board will accept a birth certificate, or a satisfactory baptismal or census record or naturalization papers.)
  - b. that such applicant is a citizen of the United States.
  - c. that such training will be under the full-time supervision of a fully licensed nursing home administrator who has been approved by the Board as a preceptor and who has accepted the responsibility of training such applicant.

- d. that such training is of a grade and character satisfactory to the Board.
- e. that such training is to be obtained in a duly licensed and authorized nursing home.
- f. that such training is to be served during eight consecutive hours daily, except for regular days off, with a minimum of 40 hours weekly.
- g. 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.
- h. that the nursing home administrator-in-training has no outside employment during training hours or thereafter unless such employment is known to and approved by the in-training employer.
- i. that alternating and rotating shifts of eight working hours may be approved by the Board as being acceptable upon request, provided that at least fifty per cent 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 is employed.

#### 402.3 Progress Reports

- a. Every preceptor of every administrator-in-training shall file 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 nursing home administrator-in-training fails to file reports quarterly as required or for a period of two years from the date of issuance of the

in-training permit, such trainee shall be deemed to have abandoned his practical training and experience. In the event that he shall thereafter 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 the requirements for qualifications for training, examination, and license as may exist at the time of such new application.

- 402.4 A nursing home administrator-in-training may be allowed two weeks leave for compulsory military training, vacation, and sick leave each year without loss of credit for his required practical training and experience.
- 402.5 Discontinuance of internship as a nursing home administrator-in-training in the nursing home from which he is registered shall be reported to the Board by the nursing home administrator and the trainee within ten days after such discontinuance.
- 402.6 Change of supervision of the nursing home administrator-in-training in any nursing home shall be reported to the Board in writing by the employer and the trainee within ten days after the change of such supervision.
- 402.7 Practical training and experience shall be set forth by the guidelines of the Advisory Council.
- 402.8 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 year after the date of his honorable discharge from active service.
- 402.9 The requirement for 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 with a minimum of three months experience in nursing home administration or in a related health administration field and who has been awarded such degree from an accredited institution of higher learning.
- 402.10 The period of internship shall not last for a period of less than one year and shall be under the supervision of a preceptor who has been approved by the Board, except as set forth in paragraph 402.9.

- 402.11 In the event that a preceptor will be found by the Board to have failed to provide the trainee with the opportunity adequately to 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.
- 402.12 Following completion of the administrator-in-training program, and precedent to issuance of a license, the Board may appoint a committee to determine if the applicant has received training consistent with the guidelines established by the Board.

PART V

LICENSES

SECTION A - QUALIFICATIONS FOR LICENSES

- 501.1 To be eligible for a license as a nursing home administrator a person must:
- a. Meet all pre-examination requirements as set forth in Part III, Section B 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,
  - c. Have sufficient knowledge and soundness of judgement to be able to adequately discharge the functions of a nursing home administrator,
  - d. After July 1, 1972, all applicants must have completed the administrator-in-training program and otherwise meet all of the standards and qualifications prescribed in these rules and regulations.
- 501.2 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 without examination if he meets all of the other requirements for licensing in West Virginia
- 501.3 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 one hundred dollars in the form of a certified check or money order which fee shall be returned to the applicant if he is denied a license.
- 501.4 The nursing home administrator, upon receipt of licensing status, shall be responsible for his home meeting all applicable state and federal laws and regulations.

**SECTION B - ISSUANCE OF LICENSE AND RENEWAL OF LICENSES AND DISPLAY**

- 502.1 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; and otherwise, the Board shall deny the same.
- 502.2 The license shall be valid for a period ending on June thirty 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 fifty dollars in the form of a certified check or money order, provided that the Board may deny an application for renewal for any reason which would justify the denial of an original application for license, and further provided that satisfactory attendance and completion of any professional program of relevant continuing education approved by the Board for nursing home administrators may be required at the discretion of the Board as a prerequisite of renewal of license.
- 502.3 The nursing home administrator license certificate shall be conspicuously displayed by the licensee at each home for which he is administrator.

**SECTION C - LICENSE**

- 503.1 License shall be issued to any applicant for administrator license who meets all requirements of these rules and regulations.
- 503.2 Paragraph 502.2 should be noted for renewal of license.

**SECTION D - EMERGENCY PERMIT**

- 504.1 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 authority in charge of the nursing home involved may designate an acting administrator to whom the Board may immediately issue an emergency permit if it finds such appointment will not endanger the safety of the occupants of the nursing home.
- 504.2 Such emergency permit shall not exceed six months, shall not be renewable and shall be valid for a period determined by the Board.
- 504.3 The fee for an emergency permit shall be fifty dollars, and shall be submitted in the form of a certified check or money order.

**SECTION E - ADMINISTRATOR-IN-TRAINING**

505.1 Administrator-in-training permits shall be issued by the Board as outlined in Section B, Part IV of these rules and regulations.

**SECTION F - LOST, MUTILATED OR DESTROYED LICENSES**

506.1 Upon receipt of satisfactory evidence that a license has been lost, mutilated, or destroyed, the Board may issue a duplicate license upon such condition as the Board may prescribe, and upon payment of a fee of five dollars.

**SECTION G - RETURN OF LICENSE**

507.1 The license certificate and/or duplicate copies thereof shall be returned by the licensee to the West Virginia Nursing Home Licensing Board immediately upon its revocation and/or upon request for any other cause.

PART VI

SUSPENSION OR REVOCATION; HEARINGS; AND JUDICIAL REVIEW

SECTION A - SUSPENSION OR REVOCATION OF LICENSE OR PERMITS

- 601.1 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.
- 601.2 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 Chapter 16, Articles 5C or 5D of the Code of West Virginia, 1931, as amended.
- 601.3 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.

SECTION B - PROCEDURES FOR HEARING

- 602.1 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 and 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 the 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 days after receipt of said order.
- 602.2 Any person adversely affected by any such order shall be entitled to a hearing thereon (as to all issues not 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 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. The Board may require the person demanding such hearing to give reasonable security for the costs thereof and if such person does not substantially prevail at such hearing such costs shall be assessed against him and may be collected by an action at law or other proper remedy.

- 602.3 Upon receipt of a written demand for such hearing, the Board shall set a time and place therefor not less than ten days and not more than thirty 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.
- 602.4 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 effect as if the provisions of said article given were set forth in these rules and regulations.
- 602.5 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 subpoenas duces tecum which shall be issued and served within the time, for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a.
- 602.6 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.
- 602.7 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 of record, if any.

602.8 The decision of the Board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of Part VI, Section C of these rules and regulations.

**SECTION C - JUDICIAL REVIEW: APPEAL TO SUPREME COURT OF APPEALS**

603.1 Any person adversely affected by a decision of the Board rendered after a hearing held in accordance with the provisions of Section B of Part VI 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.

603.2 The judgment 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.

**SECTION D - COMPLAINTS AND HEARING PROCEDURES FOR SAME**

**604.1 Charges**

- a. Any person, public officer, association or the Board may prefer charges against any licensee, administrator-in-training, provisional licensee, or holder of an emergency permit for due cause.
- b. Such charges shall be in writing and duly verified and shall be submitted to the Board.

**604.2 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.
- 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 records

### 604.3 Hearings

- a. If the Board or the person or persons thus appointed by it decide that the charges shall be heard, the Board shall designate a hearing officer to determine the charges and set a time and place for the hearing.
- b. A copy of the charges, together with notice of the time and place of the hearing, shall be served on the accused at least ten days before the date fixed for the hearing, by certified mail, addressed to him at his last known address.

### 604.4 Action upon conclusion of hearing

- 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.
- b. An order or suspension made by the Board may contain such provisions as to reinstatement of the license as the Board may direct.
- 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.

PART VII  
RECIPROCITY

SECTION A - RECIPROCITY

- 701.1 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, without examination, a nursing home administrator license issued by the proper authorities of any other state, upon payment of a fee of \$100.00 and upon submission of evidence satisfactory to the Board
- 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 endorsement to nursing home administrator licenses of West Virginia; and
  - c. That such applicant for endorsement is familiar with State and local health and safety regulations related to nursing homes; and
  - d. That such applicant for endorsement holds a valid 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.

SECTION B - REVOCATION OF LICENSE RECEIVED BY RECIPROCITY

- 702.1 The Board shall also have power, and after due notice and the opportunity to be heard at a formal hearing, to revoke or suspend the endorsement of a nursing home administrator license issued to any person upon evidence satisfactory to the Board that the duly constituted authorities of any state have lawfully revoked or suspended the nursing home administrator license issued to such person by such state.
- 702.2 The action of the Board in revoking or suspending such license shall be reviewable by the court under and pursuant to the provisions of law provided for in such cases.

## PART VIII

### RESTORATION AND REINSTATEMENT OF LICENSES

#### SECTION A - RESTORATION AFTER REVOCATION

- 801.1 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 Part III, Section B - 302.2 of these rules and regulations shall be applicable to applicants for license who have been convicted of a crime.
- 801.2 Upon such application for restoration of a license, the Board, in its discretion may grant the applicant a formal hearing upon notice.
- 801.3 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.

#### SECTION B - RESTORATION AFTER LAPSE

- 802.1 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 provided the administrator in question submits formal request as well as an application for license and the proper fee.

## PART IX

### APPLICABILITY, LEGAL EFFECT, SEPARABILITY

- 901.1 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.
- 901.2 Every rule, regulation, order and directive adopted by the Board shall state the date on which it takes effect and a copy thereof signed by the chairman of the Board and the secretary of the Board shall be filed as a public record in the office of the Board and as may be required by law.
- 901.3 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.
- 901.4 In the event that any provision of these rules and regulations is declared unconstitutional or invalid, or the application thereof to any person or circumstance is held unconstitutional or invalid, the applicability of such provision to other persons and circumstance and the constitutionality or validity of every other provision of these rules and regulations shall not be affected thereby.
- 901.5 These rules and regulations shall not affect 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.
- 901.6 Amendments to these rules and regulations shall be made only at a regularly called meeting of the Board by a majority vote. No amendment shall be acted upon unless written notice has been given to the members of the Board and members of the Advisory Council that such amendment is to be acted upon at a particular meeting of the Board.
- 901.7 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.
- 901.8 These rules and regulations shall take effect the 10th day of May, 1974.