

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE OF WEST VIRGINIA  
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**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: WV Nursing Home Adm. Lic. Board TITLE NUMBER: 21

CITE AUTHORITY 30-25-7 & 30-1-1

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Legislative Rules of Nursing Home Administrators

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

*Alberta Slack*

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Nov 14 2 23 PM '96

21 CSR 1

TITLE 21

LEGISLATIVE RULES

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA NURSING HOME ADMINISTRATORS LICENSING BOARD

SERIES 1

NURSING HOME ADMINISTRATORS

§ 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 and 30-1-1, et seq.

1.3. Filing Date. -- \_\_\_\_\_.

1.4. Effective Date. -- \_\_\_\_\_.

1.5. Repeal and Replace. -- This rule ~~repeals and replaces~~ amends Nursing Home Administrators Rule 21 CSR 1 which became effective May ~~10, 1986~~ April 5, 1994.

§ 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 West Virginia 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" means a facility licensed as such by the West Virginia Department of Health and Human Resources-;

2.6. "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 the individual has an ownership interest in the nursing home and whether or not the functions are shared with one or more persons, and who has been licensed as a Nursing Home Administrator by the Board in accordance with the provisions of this Rule.

No person shall be or act as a nursing home administrator, except as provided by West Virginia Code § 30-25-9, unless he or she holds a currently valid license or permit issued pursuant to this Rule-;

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

2.8. "Person" means an individual and does not include any firm, ~~partnership~~ corporation or association-;

2.9. "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-;

2.10. "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 exam(s); and

2.11. "Violation" means a failure to comply with W. Va. Code §§ 30-25-1, 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.a. The Board may recommend the subjects of examination of applicants for licensure as a nursing home administrator and the scope, content, form and character of the examination.

3.1.b. The Board shall hold examinations ~~shall be held~~ 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 ~~will~~ 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 failed on the third the an~~ Applicant fails the national examination for the third time, the applicant must appear before the Board and present evidence of further education before the Board will consider him or her eligible for ~~reexamination~~. ~~Applicants may take the state test as many times as needed in order to pass.~~

3.1.c. 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.d. The cost of the initial examination and reexamination for licensure as a nursing home administrator ~~shall be~~ is included in the license fee set forth in section 5.2.1a of this rule.

3.2. Pre-examination requirements:

3.2.a. 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.b. The Board will not admit or permit any person to take an examination for licensure as a nursing home administrator unless that person has first submitted thirty (30) days prior to the examination day, an application for Board approval. The Board shall consider the application ~~shall be considered~~ 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.b.(A)- over twenty-one (21) years of age;

3.2.b.(B)- citizen of the United States;

3.2.b.(C)- of good moral character; and

3.2.b.(D)- 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.a.c. Aabsence of physical impairments to perform the duties of a nursing home administrator, which include good health and freedom from contagious disease; and

3.2.d. ~~a~~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.E.g The Board shall obtain letters of satisfactory performance covering at least the calendar year preceding the date of application from the Department of Health and Human Resources and/or appropriate professional societies relating to the applicants ability to:

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

3.2.~~b~~.e(b) assume responsibilities for the administration of a nursing home as evidenced by prior accredited activities and evaluations of prior services; and

3.2.e.~~e~~(c) 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 in the nursing home.

3.2.F.f. 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.a.~~f(a)~~ a non-health administration field. The applicant shall also complete a one (1) year Administrator-In-Training (AIT) program as specified in Section 4.3 of this rule. The Board may waive the Administrator-In-Training (AIT) program and approve the applicant to take the national and estate examinations ~~(national and state)~~ if:

3.2.A.~~f(a)~~A 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, etc., for a period of three (3) years; or

3.2.B.~~f(a)~~B the applicant has worked in a related long-term health care field such as a state regulatory department for a minimum of five (5) years; or

3.2.~~b-f(a)~~C ~~N~~nursing ~~H~~home ~~A~~administration, ~~H~~ospital ~~A~~administration, or in a related health administration field. 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, pharmacology, medicine, osteopathy, ~~social work~~ social work with a concentration in gerontology, psychology, sociology, etc. When an applicant has an approved degree, he or she must verify with the Board that a minimum of twelve (12) college hours were earned in subjects specifically designated as health care management and/or administration, ~~which~~ Verification allows the Board the flexibility to consider waiver of part or all of the

Administrator-In-Training (AIT) program prior to approval of the applicant to take the ~~(national/state)~~ national and state examinations leading to licensure as a Nursing Home Administrator. If the applicant fails to produce documentation he or she will be required to complete an Administrator-In-Training (AIT) program as specified in Section 4.3 of ~~these regulations~~ this rule.

3.2.e.g. The Board ~~will~~ 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 will be requested by the Board from the ~~State Department of Public Safety~~ West Virginia State Police, on all applicants for Administrator licensing.

3.2.d.h. The Board considers the basic requirements for suitability set forth in this section ~~are to be considered as~~ minimal and ~~may~~ shall not be ~~waived~~ waive them.

3.2.e.i 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.a. 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.b. 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.c. Where an applicant for examination has not met pre-examination requirements, he or she may submit a new application for qualification for examination, ~~provided, that he or she is required to~~ The applicant shall meet the requirements for licensing ~~as shall be that are~~ in force at the time of the reapplication.

3.4. Subjects for national examination.

3.4.a. 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 must successfully pass a written national examination which may include, but not be limited to, the following subjects:

3.4.A. Resident Care Management

The applicant shall ~~plan, implement and evaluate~~ be expected to have a working knowledge of:

3.4.a.A.(a) nursing services to maximize residents' health potential quality of life;

~~3.4.b.a.A.(b)~~ social service programs to meet residents' psychological and social needs and residents' rights maximize resident quality of life;

~~3.4.c.a.A.(c)~~ the food service programs to which meet the nutritional needs of patients residents, to maximize resident quality of life;

~~3.4.d.a.A.(d)~~ medical services to meet residents' medical care needs, to maximize resident quality of life;

~~3.4.e-a.A.(e)~~ therapeutic recreational ~~and~~/activity programs to meet the needs, wants, ~~and~~ interests of residents, to maximize resident quality of life;

~~3.4.f-a.A.(f)~~ a medical records programs ~~for resident care~~ to meet documentation requirements;

~~3.4.g-a.A.(g)~~ a pharmaceutical programs to support medical care for residents to maximize resident quality of life;

~~3.4.h-a.A.(h)~~ a ~~pharmaceutical~~ rehabilitation programs to ~~support medical care for~~ maximize resident's optimal level of functioning, ~~and~~

~~3.4 i-a.A.(i)~~ ~~monitoring and evaluating residents' satisfaction with quality of care and quality of life through communications with residents and/or their representatives.~~

#### 3.4.B b. Personnel Management

The applicant shall be ~~expected to~~ have a working knowledge of:

~~3.4.a-b.(A)~~ ~~establish a work environment to foster the~~ process of communication between management and all staff;

~~3.4.b-b.(B)~~ ~~recruit, train, evaluate and retain~~ recruitment, evaluation, and retention of individuals to provide resident care and services;

~~3.4.e-b.(C)~~ ~~personnel policies, planned, implemented,~~ and ~~evaluated~~ personnel policies to comply with governmental entities, laws, and regulations; and

~~3.4.d-b.(D)~~ ~~plan, implement, and evaluate employee~~ health and safety programs.

#### 3.4.C c. Financial Management

The applicant shall ~~develop~~ ~~be expected to~~ have a working knowledge of:

3.4.a.c. (A) ~~and manage a~~ the budget process  
for the facilities to allocate fiscal resources;

3.4.b.c. (B) ~~systems~~ to monitor financial performance;  
and

3.4.e.c. (C) ~~and manage a~~ financial audits and reporting systems.

3.4.E.(d) ~~Environmental Management~~

The applicant shall ~~plan, implement, and evaluate~~ ~~be expected to~~ have a working knowledge of:

3.4.a.d. (A) ~~systems~~ for maintaining and improving buildings, grounds and equipment;

3.4.b.d. (B) ~~a~~ programs that provides a clean, attractive, and home-like environment for residents, staff and visitors;

3.4.e.d. (C) ~~an overall safety program which will~~ environmental safety programs that ensure the health, welfare, and safety of residents, staff, and visitors; and

3.4.d.d. (D) ~~fire, disaster, and emergency~~ programs to protect the safety and welfare of residents, staff, and property.

~~3.4~~ E. ~~Regulatory Management~~

~~The applicant shall.~~

3.4.a. ~~plan, implement, and evaluate policies and procedures to maintain compliance with laws and regulations, and~~

~~3.4.b. plan, implement, monitor and evaluate policies and procedures to maintain compliance with directives of governing entities (e.g. Board of Directors).~~

3.4 Free Organizational Governance and Management

The applicant shall ~~be expected to have a working knowledge of:~~

~~3.4.a.e. (A) - observe, monitor and evaluate outcomes of all programs, policies and procedures of the facility to ensure effectiveness which maintain compliance with directives of governing entities;~~

~~3.4.b.e. (B) - the need to develop and observe, monitor, a process for communicating with residents, families, staff, volunteers and governing entities and evaluate outcomes of all facility programs, policies, and procedures, to ensure effectiveness;~~

~~3.4.c.e. (C) - the need to implement, monitor and ensure the integration of residents' rights with all aspects of the facility's operations evaluate resident satisfaction with quality of care and quality of life, through communications with resident, representatives, family, staff, volunteers, and governing entities to, maximize resident quality of life;~~

~~3.4.d.e. (D) - the need to plan, implement, monitor and evaluate a risk management program ensure the integration of resident rights with all aspects of operation;~~

~~3.4.e. (E) - the need to plan, implement, and evaluate a program that informs residents and community of the services offered risk management programs;~~

~~3.4.f.e. (F) - the need to plan, implement, and promote integration between the facility and other community resources~~

including educational institutions, evaluate programs which inform residents and the community of the services offered; and

3.4.e.(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.a. 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.a.(A)- Physical Equipment and Facilities;

3.5.a.(B)- Facility Governance and Management;

3.5.a.(C)- General Health and Safety;

3.5.a.(D)- General Residents Rights, Policies and Procedures;

3.5.a.(E)- Medical and Dental Service;

3.5.a.(F)- Nursing Service;

3.5.a.(G)- Dietetic Service;

3.5.a.(H)- Pharmaceutical Service;

3.5.a.(I)- Social Services and Activities; and

3.5.a.(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.a. Any courses of study offered by ~~an~~ a licensed and accredited educational institutions 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 must cover those subjects contained on the written national examination as provided for in section 3.4 of this rule; and

4.1.b. The Board ~~will make~~ shall compile lists and information on all courses of study registered with and approved by the Board for the purpose of qualifying applicants for licensure as a nursing home administrator and this information shall be available to all administrators and interested persons.

4.2. Registration of continuing education programs.

4.2.a. On and after June 30, 1994, every licensed administrator must ~~receive~~ obtain at least twenty (20) clock hours of continuing education every year.

4.2.b. The Board may approve programs for continuing education.

4.2.c. Any organization wishing to have a program approved for continuing education credits must submit a description of the ~~program~~ program to the Board. An application should be submitted at least forty-five (45) days in advance of the scheduled date of the program. Upon request, program approval forms will be provided by the Board office.

4.3. Practical training and experience (one (1) year Administrator-in-Training (AIT) program).

4.3.a. ~~Every candidate for an Administrator in Training (AIT) permit~~ Prior to entering the one (1) year nursing home Administrator-in-Training (AIT) ~~internship program~~ for the purpose of obtaining practical training and experience shall ~~make application~~ apply for the Administrator-in-Training (AIT) permit on a form prescribed by the Board, and submit a fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00), payable ~~be~~ by certified check or money order to the West Virginia Nursing Home Administrators Licensing Board.

4.3.b. 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 ~~except for the internship~~ and:

4.3.b.(A)- that ~~such~~ 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.b.(B)- that ~~such~~ the training is of a grade and character ~~satisfactory~~ to the Board;

4.3.b.(C)- that ~~such~~ the training is to be obtained in a duly licensed nursing home which has been approved by the Board;

4.3.b.(D)- that ~~such~~ the training is to be served during eight (8) consecutive hours ~~daily~~, except for regular days off, with a minimum of forty (40) hours weekly;

4.3.b.(E)- that the trainee agreement form provided by the Board is signed by the nursing home Administrator-in-Training (AIT) and the supervising nursing home administrator and submitted to the Board for approval;

4.3.b.(F)- that 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.b.(G)- that 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 ~~seven~~ 7:00 a.m. and ~~ten~~ 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.b.(H)- that 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.c. Progress report

~~4.3.c.~~ 4.3.c.(A)- 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.c.(B)- 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.c.(C)- 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 ~~will~~ shall consider that the Administrator-in-Training (AIT) has abandoned his or her practical training and experience. In the event ~~he or she shall~~ the Administrator-in-Training (AIT) thereafter seeks to qualify for a nursing home administrator license, the Board shall consider him or her a new applicant with no portion of training completed, and he or she is required as a new applicant, to In that case the Administrator-in-Training (AIT) shall meet the requirements for qualification for training, examination and licensure as may that exist at the time of the new application.

4.3.d. A nursing home Administrator-in-Training (AIT) may be allowed 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.e. ~~Discontinuance of An Administrator-in-Training~~ (AIT) who discontinues ~~an internship training~~ as a nursing home Administrator-in-Training (AIT) in a nursing home from which he or she is a registered shall be reported to the Board by the nursing home administrator and the ~~trainee~~ Administrator-in-Training (AIT) within thirty (30) days after the discontinuance.

4.3.f. Change of supervision 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), must obtain Board approval for preceptorship.

4.3.g. 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.h. The requirement ~~of an internship~~ for training as an Administrator-in-Training (AIT) provided in this section 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 a masters or baccalaureate degree from an accredited institution of higher learning.

4.3.i. The period ~~of internship~~ 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.j. In the event that the Board determines that a preceptor has failed to provide the ~~trainee~~ 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 such period of time as the Board prescribes.

4.3.k-k. 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 commence.

4.3.k-a-1. 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.

#### § 21-1-5. Licenses

##### 5.1. Qualifications for licenses

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

5.1.a.(A). meet all preexamination requirements as set forth in Section 3.2 of this Rules, as well as meet requirements of all other applicable Rules; and

5.1.a.(B). passed 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.a. Any applicant for a nursing home administrator license shall submit an application at such the time, in such the manner, on such the forms and containing such the information as the Board may from time to time by reasonable Rule prescribe, and pay to

the Board a license fee of ~~Two Hundred Dollars (\$200.00)~~ Four Hundred Dollars (\$400.00) in the form of a certified check or money order which and the Board shall return the fee, minus any costs incurred by the Board (i.e. processing fee), ~~shall be returned~~ to the applicant if he or she is denied a license.

5.2.b. 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 ~~forthwith~~ immediately issue a license to him or her ~~a license~~. 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.c. 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 ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) 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 ~~for~~ of an original application for a license, or for failure to provide ~~proof~~ written verification of satisfactory attendance and completion of relevant continuing education as specified in Section 4.2 of this rule.

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

5.2.e. Only ~~an individual person~~ who has qualified as a licensed nursing home administrator and who holds a valid current license certificate pursuant to the provisions of this Rule has the

right and privilege of using the title "Nursing Home Administrator" and has the right and privilege of using the abbreviation of "N.H.A." after his or her name. No other person shall use or shall be designated by ~~such~~ that title or ~~such~~ that abbreviation or any other words, letters, sign card or device tending to, or intended to, indicate that the person is a licensed nursing home administrator.

5.2.f. ~~An individual~~ 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, 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.a. In order to retain a license as a nursing home administrator the following restrictions apply:

5.3.a.(A) ~~a~~ licensed nursing home administrator shall not ~~administer or act to be administrator of~~ direct more than two (2) nursing homes at one time. An administrator may ~~serve~~ 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) ~~+. Provided, that such~~ An administrator ~~is~~ may not ~~administering~~ direct more than a total ~~combined of~~ one hundred twenty (120) beds.

5.3.a. (B) ~~a~~ the administrator of two (2) nursing homes shall average not less than twenty (20) hours per week at each nursing home, ~~provided that~~ ~~the~~ administrator must have a competent and experienced assistant at each nursing home. The nursing home

administrator shall document each period of service. The  
Documentation must be available upon to the Board request;

5.3.a.(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 to be operated has a licensed capacity of thirty (30) beds or less;

5.3.a.(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 must have prior Board approval to serve in that dual capacity; and

5.3.a.(E)- the nursing home administrator, upon receipt of a license, is responsible for any nursing home which he or she administers meeting all applicable state and federal laws and rules and regulations; and

5.3.a.(F)- a nursing home administrator listing ~~(NHA)~~ is available for a Fifty Dollar fee (\$50.00).

#### 5.4. Emergency permit

5.4.a. If a licensed nursing home administrator dies or is unable to continue as the administrator for an unexpected cause, the owner or ~~governing~~ governing body or other appropriate person in charge of the nursing home involved may designate an acting authority as administrator. The Board may immediately 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.b. An emergency permit ~~shall not exceed~~ is valid for a maximum of six (6) months and is not renewable.

5.4.~~3-c.~~ The fee for an emergency permit is ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) and shall be submitted in the form of a certified check or money order.

5.5. Temporary Permit.

5.5.a. 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.b. The fee for a temporary permit is ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) and shall be submitted in the form of a certified check or money order.

5.6. Administrator-in-Training

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

5.6.b. The fee for an Administrator-in-Training (AIT) permit is ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) and shall be submitted in the form of a certified check or money order.

5.7. Lost, mutilated or destroyed licenses

~~5.7.a.~~ 5.7.a. 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.a. The administrator shall return the license certificate and/or duplicate copies to the Board immediately upon revocation of the license and/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.a. 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.b. The Board shall suspend or revoke any license or permit when it finds the licensee or holder of a temporary permit has:

6.1.a (A) obtained a license or permit by means of fraud or deceit; or

6.1.a(B) failed or refused to comply with the provisions of this Rule, or with provisions of W. Va. Code §§ 16-5C-1, et seq. and 16-5D-1, et seq.

~~6.1.c. 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 the license or permit if application were then being made for it.~~

6.1.c. When the Board suspends or revokes a license of a licensee, it will notify the Office of Health Facility Licensure and Certification (OHFLC) of such actions.

6.2. Complaints and hearing procedures

6.2.a. Complaints

6.2.a(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 Section 6.1 of this Rule. The complaint shall be in writing and duly verified and shall be submitted to the Board.

6.2.b. Preliminary hearings.

6.2.b.(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 ~~charged~~ against whom the complaint has been registered, written notice of the date, time and place of the preliminary hearing.

6.2.b.(B)-The Board may dismiss the ~~charges~~ complaint and take no action ~~thereon~~ on the complaint, by formal hearing or otherwise. ~~In which that event~~ the Board shall file and make a part of its record the ~~charges~~ complaint and the order dismissing the ~~charges~~ complaint shall be filed and made a part of its record. If the Board does not dismiss the ~~charges~~ complaint, it shall hold a formal hearing ~~shall be held~~ in accordance with Section 6.3 of this Rule.

6.3. Procedures for hearing.

6.3.a. Whenever the Board denies an application for any ~~original or renewal~~ license or denies an application for an emergency permit or suspends or revokes any license or permit it shall make and enter an order to that effect and serve a copy of the order on the applicant ~~or~~ licensee, or permittee as the case may be, by certified mail, return receipt requested. The order shall state grounds for the action taken and shall require ~~that~~ the applicant, licensee or

permittee return any license or permit suspended or revoked by the order ~~shall be returned~~ to the Board ~~by the holder~~ within twenty (20) days after receipt of the order.

~~6.3.b. Violations of any of the rules enumerated in W. Va. Code § 30-25-1 et seq. of the Nursing Home Administration Act may be adjudicated in contested case hearings.~~

6.3.b. 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.c. All of the pertinent provisions of W. Va. Code § 29-5-1, et seq., ~~shall~~ apply to and govern the hearing and the administrative procedures in connection with and following the hearing.

6.3.d. Upon conclusion of the hearing, the Board may revoke the license of the ~~respondent~~ licensee, or an emergency or temporary permit, or suspend the license or a permit for a fixed period, or reprimand, or take other disciplinary action or dismiss the charges.

6.3.e. An order of suspension made by the Board may contain such provisions as to reinstatement of the license or permit as the Board may direct.

6.3.f. The Board, in its discretion, may direct a ~~rehearing~~ rehearing or take additional evidence, and may rescind or affirm the prior ~~determination~~ 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.g. The ~~decision~~ order of the Board is final unless reversed, vacated or modified upon judicial review ~~thereof~~ of the order in accordance with the provisions of Section 6.4. of this Rule.

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

6.4.a. Any person adversely affected by ~~a decision~~ an order of the Board rendered after a hearing held in accordance with the provisions of Section 6.3 of this Rules, 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.b. 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 otherwise subject ~~to the law pertaining to the licensing of nursing home administrators~~ W. Va. Code § 30-25-4 prescribing the qualifications for a nursing home administrator license, may ~~endorse~~ grant a nursing home administrator license ~~issued by the proper authorities of any other state to an individual who possess such qualifications and meet such reasonable standards as the Board may prescribe pursuant to subsection (a), section 7 [§ 30-25-7(a)] and upon payment of a fee of Two Hundred Dollars (\$200.00)~~ Four Hundred Dollars (\$400.00) and upon submission of evidence satisfactory to the Board:

7.1.a. That the applicant is a certified administrator in good standing with the American College of Health Care Administrators (ACHCA); or

7.1.b. that the following conditions are met:

~~7.1.A. the applicant for reciprocity has obtained a passing scaled score of seventy five percent (75%) or above on the national examination, and~~

~~7.1.B. the applicant satisfactorily passes an examination on state law and rules applicable for nursing homes and nursing home administrators, and~~

~~7.1.C.b.(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; and

~~7.1.D.b.(B)~~ the other state gives similar recognition and reciprocity to nursing home administrators licenses of West Virginia; and

~~7.1.E.b.(C)~~ the applicant for reciprocity holds a current license as a nursing home administrator which has not been revoked or suspended in each state from which he or she has ever received a nursing home administrator license or reciprocal endorsement; and

~~7.1.F. the Board shall charge and collect a Fifty Dollar (\$50.00) verify claim fee to complete endorsement letters, forms, etc., from out of state licensing boards.~~

~~8.1.~~ Restoration after revocation.

8.1.a. 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 the restoration of a license has removed the disability. ~~The requirements of Section 3.2.3g of this~~

~~Rule is applicable to applicants for licensure who have been convicted of a crime.~~

~~8.1.b. Upon application for restoration of a license, the Board, in its discretion may grant the applicant a formal hearing upon notice.~~

~~8.1.b.~~

~~8.1.c. If a conviction is subsequently reversed on appeal and the accused acquitted or discharged, his or her license may be reissued by the Board.~~

## 8.2. Restoration after lapse.

8.2.a. 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~~ with a lapsed license must 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.b. After one (1) year from the expiration date of his or her license, the Board will consider the administrator in question as a new applicant and he or she is subject to all ~~applicable~~ rules of the provisions of this rule.

~~9.0 Limitations.~~

~~9.1 This Rule is supplemental to W. Va. Code §39-25-1, et seq., providing for the licensing of nursing home administrators and has the force and effect of the law.~~

~~9.2 Every rule, 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 and shall be filed as a public record in the office of the Board as may be required by law.~~

~~9.3 This Rule is 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 this Rule is declared unconstitutional or invalid, or the application thereof to any person or circumstances is held unconstitutional or invalid, the applicability of that provision to other persons and circumstances and the constitutionality or validity of every other provision of this Rule shall not be affected thereby.~~

~~9.5 This Rule shall not effect 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 this Rule had not been promulgated.~~

~~9.6 The Board shall amend this Rule in accordance with W. Va. Code §29A-3-1, et seq.~~

~~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.~~

- 9.1.b. A temporary permit;
- 9.1.c. An Administrator-in-Training (AIT) application;
- 9.1.d. A licensure examination application;
- 9.1.e. A reciprocity application; and
- ~~9.1.f. A Nursing Home Administration (NHA) fee.~~

NHA008

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Nursing Home Administrators Licensing Board

Subject: Rules of the Nursing Home Administrators Licensing Board

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PERTINENT DATES

Filed for public comment: April 17, 1996  
Public comment period ended: May 17, 1996  
Filed following public comment period: May 21, 1996  
Filed LRMRC: May 21, 1996  
Filed as emergency: May 21, 1996

Fiscal Impact: Fiscal Note incorrectly states that there will be no fiscal impact even though there will be an increase in fees.

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 14.3.a. has been amended to increase the application fee for an Administrator-in-training permit from \$100 to \$200.

Section 5.1.a & c have been amended to increase the license fee from \$200 to \$400 and the renewal fee from \$100 to \$200.

Section 5.4.b has been amended to increase the fee for an emergency permit from \$100 to \$200.

Section 5.5 has been amended to increase the fee for a temporary permit from \$100 to \$200.

Section 5.6 has been amended to increase the fee for an Administrator-in-Training permit from \$100 to \$200.

Section 7.1 has been amended to increase the fee for a reciprocal license from \$200 to \$400.

Section 10.2 sets forth the previously mentioned fees as well as a fee of \$50 for endorsement verification and \$25 for NHA's listings.

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AUTHORITY

Statutory authority: W.Va. Code, §30-25-7, which provides, in part, as follows:

(a) The board shall:...

(3) Promulgate reasonable legislative rules in accordance with and subject to the provisions of article three, chapter twenty-nine-a of this code, for the proper performance of its duties and shall establish fees for examinations, permits, licenses and renewals sufficient to cover the costs of administration of this article...

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ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No. Enrolled House Bill No. 2489 which passed during the 1996 Legislative Session gave the Board the authority to set fees.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Without a correct fiscal note, it is not possible to determine whether or not the increased fees in the proposed rule are reasonable. The fees should be sufficient to pay for the operating costs of the Board in order to make the Board self-supporting.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes. However the fiscal note filed with the proposed rule is inaccurate and needs to be revised and refiled.

VIII. OTHER.

Counsel has technical modifications to suggest.



**Senate Bill No. 200**

(By Senator(s) Ross, Anderson, Macnaughtan,  
Boley and Buckalew)

[Introduced March 3, 1997; referred to the  
Committee on Health and Human Resources; and  
then to the Committee on the Judiciary.]

10 A BILL to amend article nine, chapter sixty-four of the  
11 code of West Virginia, one thousand nine hundred  
12 thirty-one, as amended, by adding thereto a new  
13 section, designated section eight, relating to  
14 authorizing the nursing home administrators licensing  
15 board to promulgate a legislative rule relating to the  
16 board.

17 *Be it enacted by the Legislature of West Virginia:*

18 That article nine, chapter sixty-four of the code of  
19 West Virginia, one thousand nine hundred thirty-one, as  
20 amended, be amended by adding thereto a new section,  
21 designated section eight, to read as follows:

22 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND  
23 BOARDS TO PROMULGATE LEGISLATIVE RULES.

1 §64-9-8. Nursing home administrators licensing board.

2 The legislative rule filed in the state register on  
3 the twenty-first day of May, one thousand nine hundred  
4 ninety-six, under the authority of section seven, article  
5 twenty-five, chapter thirty, of this code, modified by the  
6 nursing home administrators licensing board to meet the  
7 objections of the legislative rule-making review committee  
8 and refiled in the state register on the fourteenth day of  
9 November, one thousand nine hundred ninety-six, relating to  
10 the nursing home administrators licensing board (rules of  
11 the nursing home administrators licensing board, 21 CSR 1),  
12 is authorized.

13

14 NOTE: The purpose of this bill is to authorize the  
15 Nursing Home Administrators Licensing Board to promulgate  
16 a legislative rule relating to the Board.

17  
18 This section is new; therefore, strike-throughs and  
19 underscoring have been omitted.

2363

H. B. 2363

1 Bill-Nursing Home Admin (By Delegate(s) Douglas, Hunt, Compton,  
2 Faircloth, Lynch and Riggs)

3 [Introduced March 3, 1997; referred to the  
4 Committee on Government Organization then the  
5 Judiciary.]  
6  
7  
8  
9

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21-1

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