

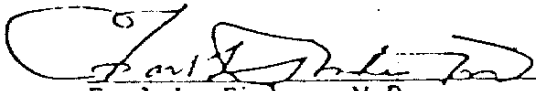
NOTICE OF PUBLIC HEARING

Pursuant to Chapter 29a, Article 3 of the West Virginia Code of 1931, as amended, the West Virginia Nursing Home Administrators Licensing Board shall convene a public hearing at 1:00 p.m. on December 14, 1983, at the Holiday Inn, Virginia Street and Cyler Avenue, Oak Hill, West Virginia, for the purpose of taking evidence pertaining to the filing of rules and regulations governing the licensure of nursing home administrators in this State.

All persons desiring to present evidence on the proposed rules and regulations shall be present in person at the hearing. The issues to be discussed at the hearing shall be limited to actual information contained in the proposed rules and regulations. All evidence offered for the Board's consideration with reference to these proposed rules and regulations shall be submitted in written form and delivered to the office of the West Virginia Nursing Home Administrators Licensing Board, 110 Shumate Street, Oak Hill, West Virginia 25901, on or before 4:30 p.m., Thursday, December 8, 1983.

Copies of the proposed rules and regulations may be obtained from the Office of the West Virginia Nursing Home Administrators Licensing Board - Telephone 348-2566.

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 11/10/83
Administrative Law Division


Earl L. Fisher, M.D.
Chairman of the West Virginia Nursing
Home Administrators Licensing Board

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SECRETARY OF STATE
THIS DATE NOV. 10, 1983
Administrative Law Division


Earl L. Fisher, M.D.
Chairman of the West Virginia Nursing
Home Administrators Licensing Board

WEST VIRGINIA PROPOSED RULES
NURSING HOME ADMINISTRATORS LICENSING BOARD

Chapter 30-25
Series I
(1983)

INDEX FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 11/10/83
Administrative Law Division

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WEST VIRGINIA PROPOSED RULES
NURSING HOME ADMINISTRATORS LICENSING BOARD

Chapter 30-25
Series I
(1983)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE 11/10/83
Administrative Law Division

Subject: Nursing Home Administrators

PART I - GENERAL

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~~ West Virginia Nursing Home Administrators Licensing Board, under and pursuant to the provision of ~~Chapter-16, Article-5B, Code of West Virginia, 1931,~~ Chapter 30, Article 25, 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~~ West Virginia Nursing Home Administrators Licensing Board as created in ~~Chapter-16, Article-5C, Code of West Virginia, 1931, as amended~~ Chapter 30, Article 25, 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-5B, Chapter-16,-Code-of-West-Virginia,-1931,-as-amended-~~ Section Nine, Article 25, Chapter 30, 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.~~ Person means an individual and does not include any firm, partnership, corporation, or association.

102.5. Nursing Home means a facility licensed as such by the West-Virginia Nursing-Home-Licensing-Board West Virginia Department of Health.

102.6. Practice of Nursing Home Administration means that performance of 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.

102.7. Nursing Home Administrator-In-Training means an individual registered as such with the Board, under and pursuant to these rules and regulations.

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

102.9. Violation means failure to comply with the licensing law or any provisions 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~~ 120 beds.

103.2. The administrator of two facilities shall average not less than ~~16~~ 20 hours per week at each facility, on condition that he or she has a competent and experienced assistant at each facility. Each period of service is to be documented. Documentation must be available upon Board request.

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 ~~25~~ 30 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 require-

ments 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 on 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-request-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-Coun-
cil;- 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 II - EXAMINATIONS

Section A - Scheduling of Examinations and Re-examinations

201.1. The Advisory-Council Board may recommend the subjects of examina-
tions 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.

201.2. 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. Applicants will be permitted to take the test three times. If failed on the third examination, the applicant must appear before the Board and present evidence of further education before he is considered eligible for re-examination.

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

201.4. 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

202.1. 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 Board approval, which shall be considered an application for license and also for examination and qualification. Such application shall be in writing on forms provided therefore 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 evaluations 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--~~

In addition to the completion of high school or secondary school education, he shall have successfully completed a course of study for and been awarded a baccalaureate degree and shall have completed a one-year Administrator-In-Train-

ing Program as specified in Part III, Section C of these regulations unless the baccalaureate degree is in nursing home administration, hospital administration, or in a related health administration field as approved by the Board.

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.~~

202.2. 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.

202.3. The following shall be considered as guidelines for the purpose of determining qualifications under paragraph 202.1 - 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 the individual as an "administrator-in-training."

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

202.5. 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.

202.6. 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 - Disqualification: Re-examination

203.1. ~~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 judgement 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 202.1 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.

203.1. 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 thereof and of his right to a hearing within 30 days.

203.2. An applicant for examination who has been disqualified may petition the Board in writing for a hearing and a review of his application within 30 days of receipt of notification of disqualification.

203.3. Where an applicant for examination has been disqualified, he may re-apply 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.

203.4. Applicant will be permitted to take the examination three times. If failed on the third examination, the applicant must appear before the Board and present evidence of further education before he will be considered eligible for re-examination.

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 administrators 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

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

A. Applicable Standards of Environmental Health and Safety

- (1) Hygiene and Sanitation
- (2) Communicable Diseases
- (3) Management of Isolation
- (4) The Total Environment (Noise, Color, Orientation,
Salinization, Temperature, Lighting, Air Circulation)
- (5) Elements of Accident Prevention
- (6) Special Architectural Needs of Nursing Home Patients
- (7) Drug Handling and Control
- (8) Safety Factors in Oxygen Usage

B. General Administration

- (1) Institutional Administration
- (2) Planning, Organizing, Directing, Controlling, Staffing,
Coordinating and Budgeting
- (3) Human Relations
 - (a) Management/Employee Interrelationships

- (b) Employee/Employee Interrelationships
- (c) Employee/Patient Interrelationships
- (d) Employee/Family Interrelationships
- (4) Training of Personnel
 - (a) Training of Employees to Become Sensitive To Patients Needs
 - (b) On-going Inservice Training/Education

C. Patient Care

Psychology of Patient Care

- (1) Anxiety
- (2) Depression
- (3) Drugs, Alcohol and Their Effect
- (4) Motivation
- (5) Separation Reaction

Principles of Medical Care

- (1) Anatomy and Physiology
- (2) Psychology
- (3) Disease Recognition and Prevention
- (4) Disease Processes
- (5) Nutrition
- (6) Aging Processes
- (7) Medical Terminology
- (8) Materia Medica (Pharmacology)
- (9) Medical Social Service
- (10) Utilization Review

(11) Professional and Medical Ethics

Personal and Social Care †

(1) Resident and Patient Care Planning

(2) Activity Programming

(a) Patient Participation

(b) Recreation

(3) Environmental Adjustment - Interrelationship Between
Patient and

(a) Patient

(b) Staff (Staff Sensitivity to Patient Needs as a
Therapeutic Function)

(c) Family and Friends

(d) Administrator

(e) Management (Self-Government/Patient Council

(4) Rehabilitation and Restorative Activities

(a) Training in Activities of Daily Living

(b) Techniques of Group Therapy

(5) Interdisciplinary Interpretation of Patients' Care To

(a) The Patient

(b) The Staff

(c) The Family

Therapeutic and Supportive Care and Services in Long-Term Care

(1) Individual Care Planning As It Embraces All Therapeutic
Care and Supportive Services

(2) Meaningful Observations of Patient Behavior as Related

To Total Care

- (3) Interdisciplinary Evaluation and Revision of Patient Care Plans and Procedures
- (4) Unique Aspects and Requirements of Geriatric Patient Care
- (5) Professional Staff Interrelationships with Patient's Physician
- (6) Professional Ethics and Conduct
- (7) Rehabilitative and Remotivational Role of Individual Therapeutic and Supportive Services
- (8) Psychological, Social and Religious Needs, In Addition to Physical Needs of the Patients
- (9) Needs for Dental Services

D. Departmental Organization and Management

- (1) Criteria for Coordinating Establishment of Departmental and Unit Objectives
- (2) Reporting and Accountability of Individual Departments To Administrator
- (3) Criteria for Departmental Evaluation (Nursing, Food Service, Therapeutic Services, Maintenance, Housekeeping)
- (4) Techniques of Providing Adequate Professional, Therapeutic, Supportive, and Administrative Services
- (5) The Following Departments May Be Used In Relating Matters of Organization and Management
 - (a) Nursing
 - (b) Housekeeping

- (c) Dietary
- (d) Laundry
- (e) Pharmaceutical Services
- (f) Social Services
- (g) Business Office
- (h) Recreation
- (i) Medical Records
- (j) Admitting
- (k) Physical Therapy
- (l) Occupational Therapy
- (m) Medical and Dental Services
- (n) Laboratories
- (o) X-Ray
- (p) Maintenance

E. Community Interrelationships

- (1) Community Medical Care, Rehabilitative and Social Services Resources
- (2) Other Community Resources
 - (a) Religious Institutions
 - (b) Schools
 - (c) Civil and Voluntary Service Agencies
 - (d) Government Agencies
- (3) Third-Party Payment Organizations
- (4) Comprehensive Health Planning Agencies
- (5) Volunteers and Auxiliaries

F. Basic Terminology

G. Pertinent Federal, State, and Local Health and Safety Laws
and Rules Applicable to Nursing Homes and Nursing Home Ad-
ministration

204.2. Subscores will be reported in

- a. Institutional Management (including b and d above)
- b. Patient Care Administration (including c above)
- c. Organization of Community Health Services (including a, e, and
f above)
- d. State and Local Laws and Regulations (including g above)

PART III - EDUCATION, TRAINING, AND EXPERIENCE

Section A - Registration of Accredited Educational Institutions and Courses of
Study

301.1. Any course of study offered by an accredited 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 educational institution or by the applicant for licensure.

301.2. 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 - Registration of Continuing Education Programs

302.1. On and after June 30, 1982, every licensed administrator must re-
ceive at least thirty clock hours of continuing education every two years.

302.2. The Board must approve all programs for continuing education. If the Board elects it may refer a program to the state trade association for opinions or approval.

302.3 Any organization wishing to have a program approved must submit a copy or explanation of the program to the Board. Application should be submitted at least three months in advance of the scheduled date of the program.

Section C - Practical training and Experience (one Year Administrator-In-Training Program)

303.1. 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 paragraph 202.1-e, shall make application for the administrator-in-training permit prior to the beginning of such internship on a form provided by the Board. and submit payment of fifty dollars, payable by certified check or money order to the West Virginia Nursing Home Administrators Licensing Board.

303.2. 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 certified 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, licensed for at least three years

and licensed and practicing in West Virginia for at least the past one year,
and 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 nursing home which has been approved by the Board.

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 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.

303.3. 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 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 requirements for qualifications for training, examination, and license as may exist at the time of such new application.

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

303.5. Discontinuance of internship as a nursing home administrator-in-training in a 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.

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

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

303.8. 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.

303.9. The requirement of internship as administrator-in-training herein provided for shall not apply to any person who has completed a course of study for a master or baccalaureate degree with a minimum of three months experience in nursing home administration in nursing home administration, hospital administration, or in a related health administration field, as approved by the Board, and who has been awarded such degree from an accredited institution of higher learning.

303.10. 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.

303.11. In the event that a preceptor will be found by the Board to have failed to provide the trainee with the opportunity to adequately train himself under proper supervision in the administrative and operating functions of the nursing home, the Board shall cancel the preceptor's authorization to serve as preceptor, for such period of time as the Board will prescribe.

303.12. Following completion of the administrator-in-training program, and precedent to sitting for the licensing examination, the Board may appoint a committee to determine if the applicant has received training consistent with the guidelines established by the Board.

PART IV - LICENSES

Section A - Qualifications for Licenses

401.1. 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~~ Part II, 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. All applicants must have completed the administrator-in-training program or otherwise met all of the standards and qualifications prescribed in these rules and regulations.

401.2. 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 applicant satisfactorily passes the examination on State Laws and Regulations applicable to Nursing Homes and Nursing Home Administration and if he meets all of the other requirements for licensing in West Virginia.

401.3. 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.

401.4. The nursing home administrator, upon receipt of a 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

402.1. 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.

402.2. 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 of relevant continuing education as specified in Part III, Section B. of these regulations.

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

Section C - License

403.1. License shall be issued to any applicant for administrator lic-

ense who meets all requirements of these rules and regulations.

403.2. Paragraph 402.2 should be noted for renewal of license.

Section D - Emergency Permit

404.1. 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, provided evidence is submitted substantiating the requirement for permit and the individual has taken and passed the test on State Laws and Regulations applicable to nursing homes.

404.2. Such an emergency permit shall not exceed six months and shall not be renewable. ~~and shall be valid for a period determined by the Board.~~

404.3. 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 - Temporary Permit

405.1 A temporary permit may be issued for a period of 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 application. The temporary permit may be renewed at the discretion of the Board.

405.2. The fee for a temporary permit shall be \$50 and shall be submitted in the form of a certified check or money order.

Section F - Administrator-in-Training

406.1. Administrator-In-Training Permits shall be issued by the Board as outlined in Section C, Part III of these rules and regulations.

406.2. The fee for an Administrator-In-Training permit shall be fifty dollars (\$50), and shall be submitted in the form of a certified check or money order.

Section G - List, Mutilated or Destroyed Licenses

407.1. 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 H - Return of License

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

PART V - SUSPENSION OR REVOCATION: HEARINGS: AND JUDICIAL REVIEW

Section A - Suspension or Revocation of License or Permits

501.1. The Board may at any time upon its own motion and shall upon verification of 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.

501.2. 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.

501.3. 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 appli-

cation for such license or permit if application were then being made for it.

Section B - Procedures for Hearing

502.1. 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.

502.2. 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. This 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.

502.3. 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.

502.4. 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.

502.5. 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.

502.6. 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 compensation.

502.7. 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.

502.8. The decision of the Board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of

Part V, Section C of these rules and regulations.

Section C - Judicial Review: Appeal To Supreme Court Of Appeals

503.1. 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 V 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.

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

Section D - Complaints and Hearing Procedures for Same

504.1. Charges

a. Any person, public officer, association or the Board may prefer charges against any licensee, administrator-in-training, 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.

504.2. 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 record.

504.3. 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.

504.4. Action upon conclusion of the 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 recind 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 VI - RECIPROCITY

Section A - Reciporcity

601.1. 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 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 passes an examination on State Laws and Regulations applicable to nursing homes.
- 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

602.1. 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.

602.2. 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 VII - RESTORATION AND REINSTATEMENT OF LICENSES

Section A - Restoration After Revocation

701.1. 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 II, Section B - 202.2 of these rules and regulations shall be applicable to applicants for license who have been convicted of a crime.

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

701.3. 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

702.1. 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 and meets requirements for continuing education hours.

702.2. After one year from the expiration date the administrator in question will be considered as a new applicant and will be subject to regulations herein that apply.

PART VIII - APPLICABILITY, LEGAL EFFECT, SEPARABILITY

801.1. These rules and regulations shall be supplemental to the law pro-

viding for the licensing of nursing home administrators and shall have the force and effect of the law.

801.2. 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.

801.3. 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.

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

801.5. 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.

801.6. 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.

801.7. 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.

801.8. These rules and regulations shall take effect the 21st day of
October, 1983