

Regulations, Standards and Licensing Law For Nursing Homes



Adopted
March 31, 1948

Revised
February 19, 1953
July 1, 1957
March 15, 1962

Filed with Secretary of State
May 29, 1962

Effective
July 1, 1962

WEST VIRGINIA DEPARTMENT OF HEALTH

BUREAU OF HOSPITALS AND MEDICAL FACILITIES

Charleston 5, West Virginia



Table of Contents

ADOPTION OF REGULATIONS AND STANDARDS

The State Department of Health has placed the responsibility of issuance of licenses in the Bureau of Hospitals and Medical Facilities, which carries out this function with the assistance of the other Bureaus and Divisions of the State Department of Health.

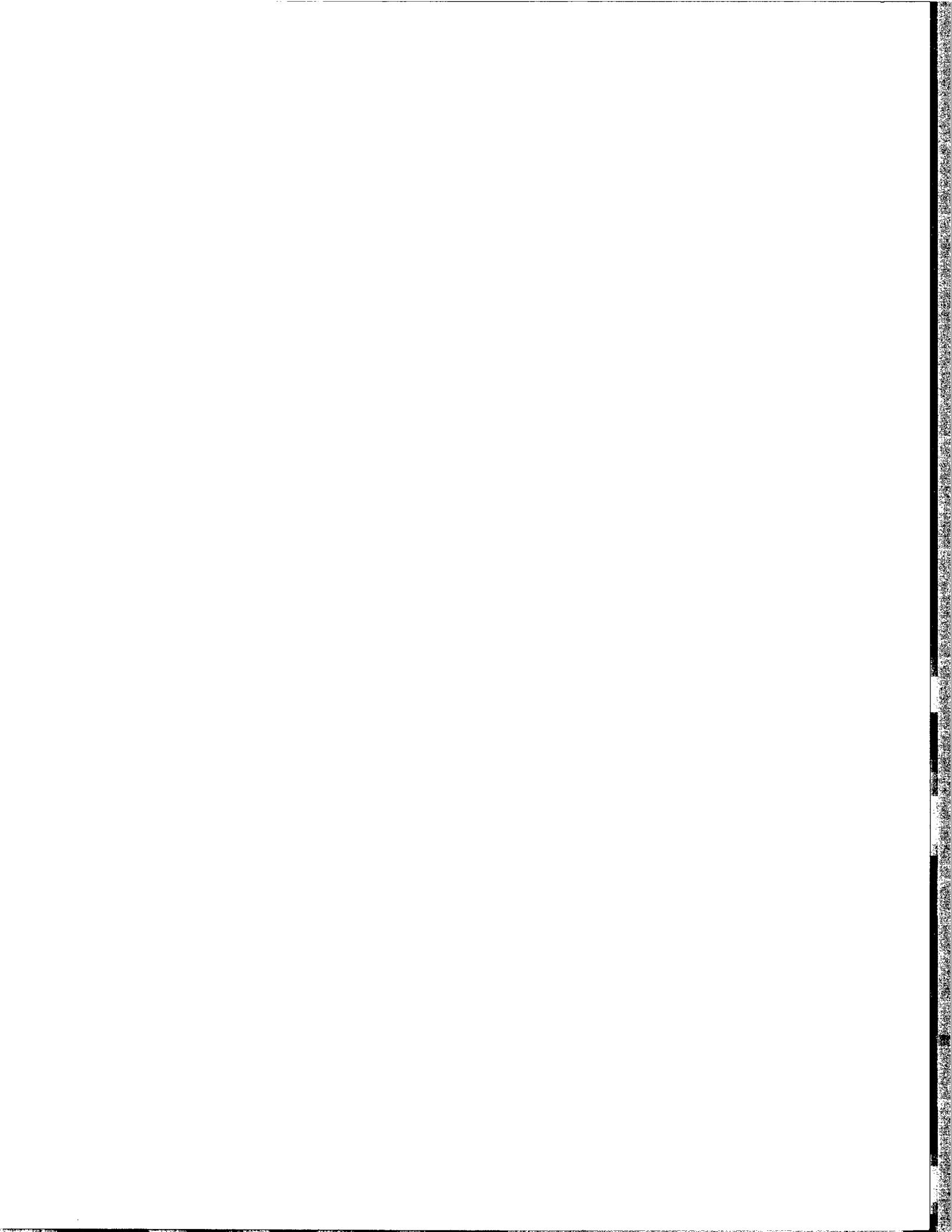
The minimum requirements for licensing of nursing homes were formulated, not according to arbitrary rulings but as a result of the study of actively operating institutions, and were designed for the express purpose of providing safe and adequate nursing care. Experience has shown that the minimum requirements benefit the nursing home by increasing the confidence of the community in the institution as a place in which scientific nursing care may be received. It is possible for all nursing homes to attain these standards.

The regulations were filed with the Secretary of State on May 29, 1962, in compliance with Chapter 5, Article 2, Section 3 of the Code of West Virginia, 1931, as amended, and that true copies of these regulations have been sent to nursing homes and local health departments and under the law will be effective 30 days following the date upon which they were filed with the Secretary of State.

N. H. Dyer

N. H. DYER, M. D., M. P. H.
State Director of Health

	Page
PART I—GENERAL	
Legal Authority	1
Definitions	1-2
Adoption, Amendment, and Recision	2
Inspections	2
PART II—THE LICENSE	
Institutions to be Licensed	3
Institutions Exempt from These Regulations	3
Application for	3-4
Issuance of	4-5
Revocation of	5
Return of	5
PART III—ADMINISTRATION	
Management	6
Records and Reports	6-8
Staffing	8
PART IV—PHYSICAL FACILITIES	
Site Selection	9
New Construction	9-10
Additions and Alterations	10
Conversion of Existing Buildings	10
General Requirements	
Building, Space, and Equipment	10-15
Dietary	15-16
Laundry	16
Lighting, Heating, and Ventilation	16-17
Safety	17
Sanitation and Maintenance	17-18
PART V—PATIENT CARE	
Medical and Dental Services	19
Nursing Services	20-21
Pharmaceuticals	21-22
LICENSING LAW	23-29



Regulations, Standards and Licensing Law for Nursing Homes

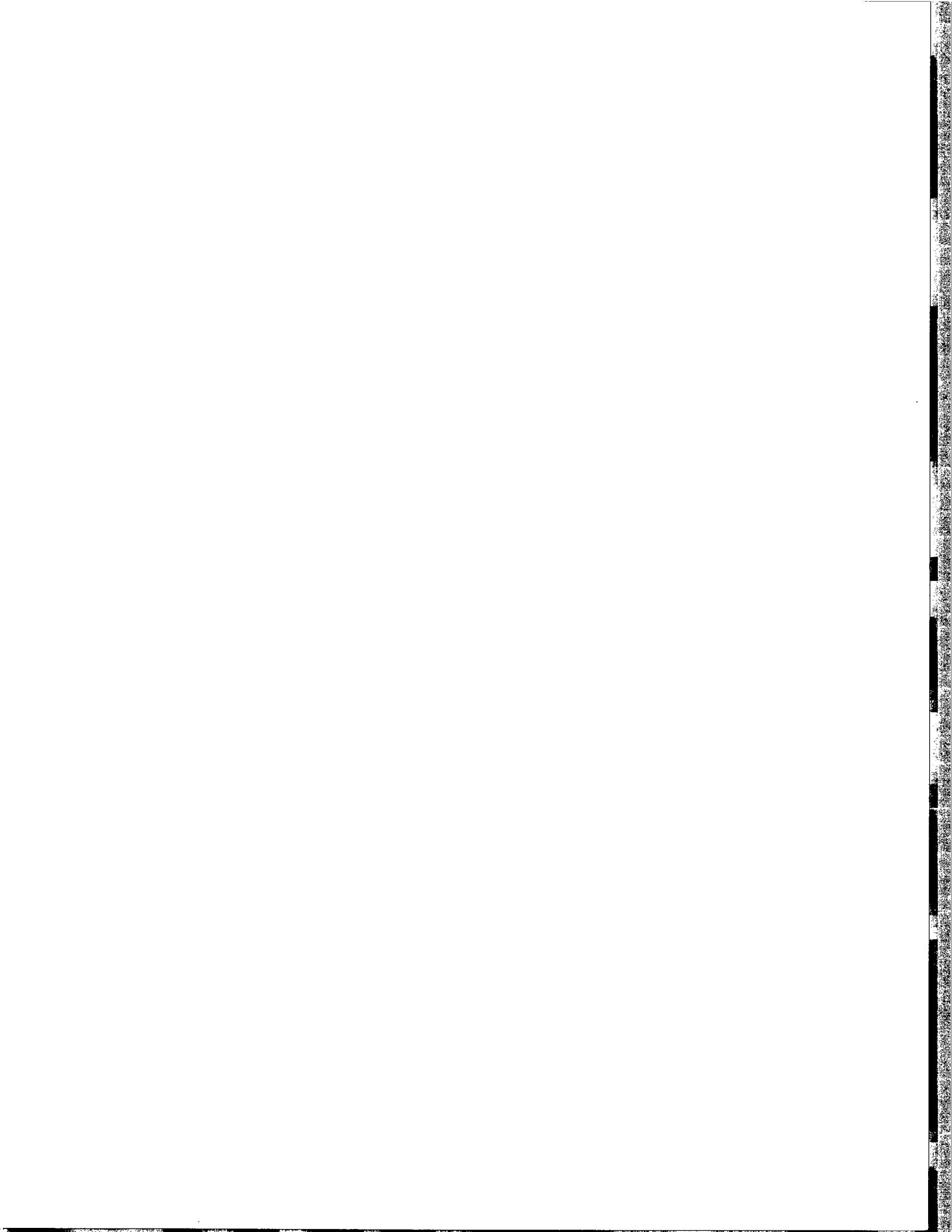
Part I

GENERAL

SECTION A—LEGAL AUTHORITY: The State Board of Health does hereby adopt and promulgate the following standards, rules, and regulations governing nursing homes and other related institutions required to be licensed, under and by virtue of authority vested in it by the West Virginia State Legislature; Article 5-B—Hospitals and Similar Institutions, Chapter 16, Code of West Virginia, 1931, as amended.

SECTION B—DEFINITIONS

- 102.1 *Ambulant Patient* means any patient who, without assistance in an emergency, would be physically and mentally capable of traveling to safety, including ascent and descent of stairs; who does not require assistance to dress and undress; and who can take care of his personal needs.
- 102.2 *Applicant* shall mean the person who submits an application for a license, or a renewal of a license, to operate a nursing home.
- 102.3 *Bed Capacity* means the greatest number of beds the nursing home is licensed to offer for patient use.
- 102.4 *Chronic or Convalescent Care* is defined as those services given a patient requiring extended nursing service for recovery from physical illness, injury, or infirmity.
- 102.5 *License* means the document issued by the State Board of Health and constitutes the authority to receive patients and perform services included within the scope of these regulations.
- 102.6 *Nursing Home* is an institution, place, or building in which an accommodation of five or more beds is maintained,



furnished, or offered for the care of any persons requiring or receiving chronic or convalescent care.

102.7 *Nursing Home Patient* is any individual admitted to a nursing home, even though such person does not require bedside nursing care.

102.8 *Restraint* means any device to limit movement by the patient.

102.9 *Seclusion* is defined as the retention of a patient in a room from which immediate exit is impeded by a lock, latch, bar, hook, or other device which cannot be operated by the patient.

102.10 *Violation* means failure to comply with the licensing law or any provisions of these regulations. A violation constitutes a misdemeanor as set forth in Section 11, Article 5-B, Chapter 16, Code of West Virginia, 1931, as amended.

SECTION C—PROCEDURES GOVERNING ADOPTION, AMENDMENT, AND REVISION OF REGULATIONS: The State Board of Health, with the advice and counsel of the Advisory Board, shall have the power to make, enforce, modify, amend, or rescind rules and regulations governing the operation and conduct of nursing homes as specified in Section 8, Article 5-B, Chapter 16, Code of West Virginia, 1931, as amended.

SECTION D—INSPECTIONS: Duly authorized representatives of the State Board of Health shall have the right to enter upon or into the premises of any nursing home or related facility in order to make whatever inspection is deemed necessary in accordance with the licensing authority vested in the Board.

Part II

THE LICENSE

SECTION A—INSTITUTIONS TO BE LICENSED: A license is required of all places that are conducted as nursing homes, within the meaning of the term as defined in Part I, Section B, of these regulations and in Section 1, Article 5-B, Chapter 16, Code of West Virginia, provided that such place is not specifically excluded by the code.

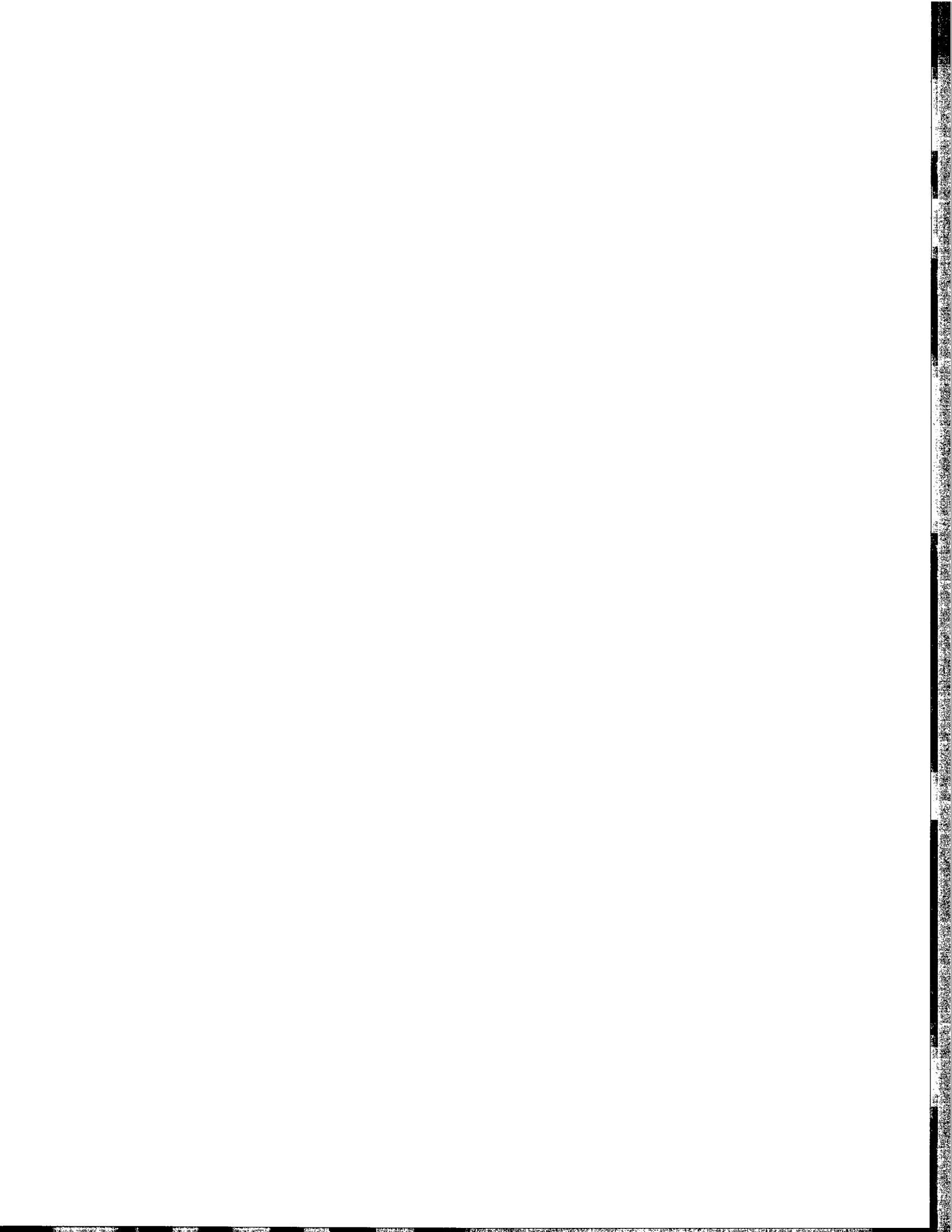
SECTION B—INSTITUTIONS EXEMPT FROM THESE REGULATIONS: General and specialized hospitals, institutions regularly licensed by the Department of Welfare, and facilities for the treatment of alcoholism are exempt from these regulations. However, institutions having dual functions, one of which is clearly subject to licensure under these regulations, are not exempt.

SECTION C—APPLICATION FOR LICENSE: Applicants for license shall file applications with the Bureau of Hospitals and Medical Facilities, State Department of Health, upon forms prescribed by the Department and shall pay an annual license fee as required in Section 4, Article 5-B, Chapter 16, Code of West Virginia, as follows: "Those with 5 beds but less than 50 beds shall pay a fee of \$20.00; those with 50 beds or more and less than 100 beds shall pay a fee of \$30.00; those with 100 beds or more and less than 200 beds shall pay a fee of \$40.00; and those with 200 beds or more shall pay a fee of \$50.00."

Subterfuge or other evasive means, such as filing for a license through a second party when an individual has been disqualified for licensure, shall constitute grounds for the refusal or revocation of a license.

Furnishing of an application form is in no way a guarantee that the completed application will be acceptable or that a license will be issued by the State Board of Health.

203.1 *Name of Nursing Home:* Every nursing home shall be specifically identified as such by an appropriate name, which shall be used in applying for the license. It shall not be changed without the approval of the State Board of Health. Following such approval, the new name will be shown on



the next issue of a license. The words "clinic," "hospital," "sanitorium," "sanitarium," or any other such word which will reflect a different type of institution, shall not appear in the title of a nursing home.

203.2 *Number of Beds:* Each application for license shall specify the maximum number of beds established by the State Board of Health as the institution's legal bed capacity. Nursing homes shall not exceed their legal capacity at any time.

203.3 *Reference Letters:* Each new applicant must provide at least five letters from reputable citizens with whom he is personally acquainted. They shall certify that he is qualified by previous training and experience to assume the administrative and professional responsibilities of a nursing home, and that he is financially able to meet anticipated operating expenses. These references must include licensed physicians and other professional people. One must be a credit reference from the applicant's bank and one a character reference from a personal or business associate.

SECTION D—ISSUANCE OF LICENSE: The license will be issued on a form prescribed by the State Board of Health and shall set forth the name, location, type of ownership, and number of beds for which the nursing home is licensed.

204.1 *Expiration and Renewal of License:* All licenses shall expire on the thirtieth day of June following the date of their issuance.

Applications for the renewal of licenses will be mailed to each nursing home, and shall be completed and returned by the applicant, with the required license fee, to the State Department of Health, before May 31st.

The renewal of a license shall be contingent upon evidence of compliance with the licensing law and all minimum standards and regulations.

Each applicant will be duly notified of any non-compliances. He shall have complied with the provisions of the law, rules, and regulations before issuance of a license will be considered.

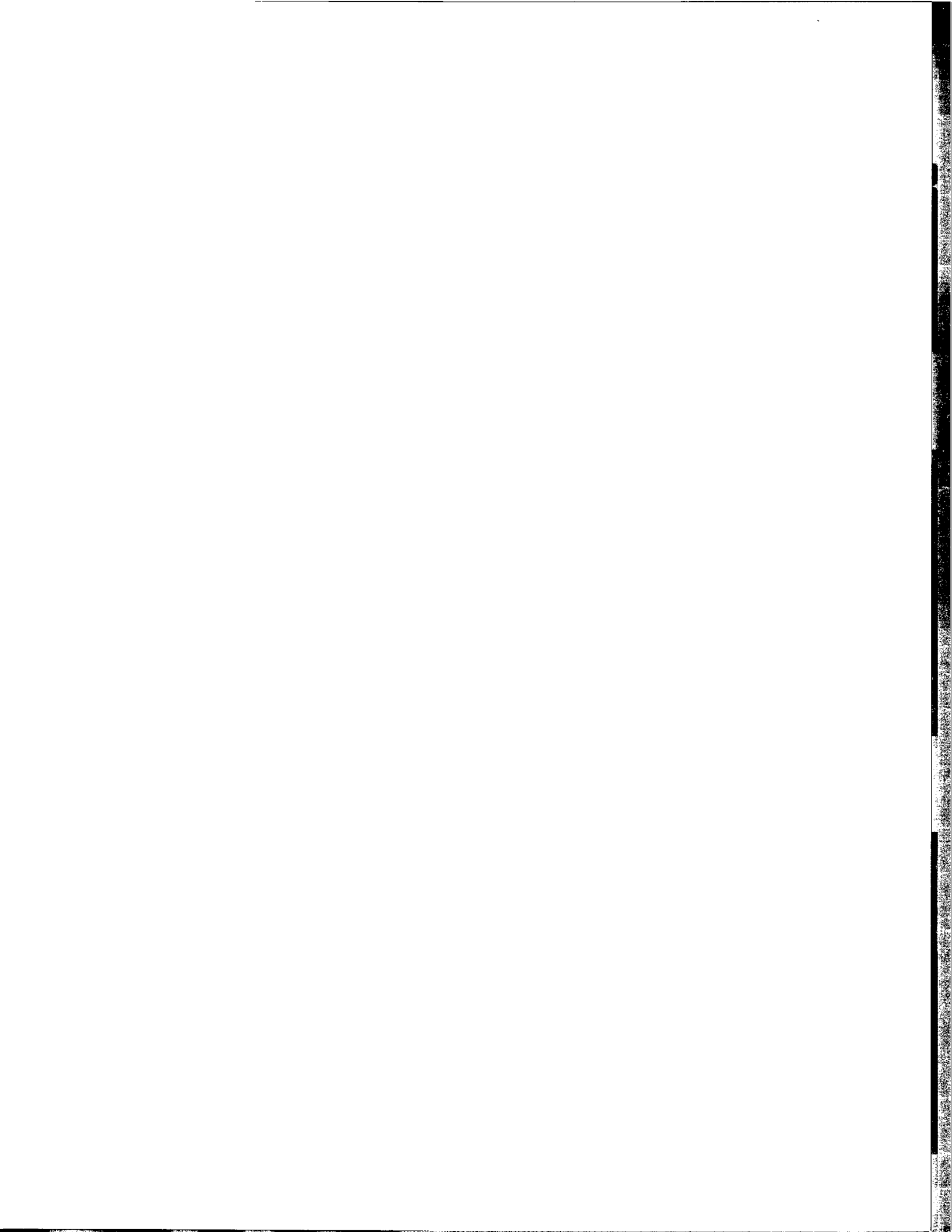
204.2 *Posting of License:* The license shall be conspicuously posted within the nursing home.

204.3 *Licenses are not Transferable or Assignable:* The State Board of Health shall be immediately notified of any changes relating to the ownership, location, or operation of the institution. Each nursing home shall be conducted in the name of the licensee as indicated on the license certificate.

SECTION E—REVOCATION OF LICENSE: After an opportunity for a hearing, the State Board of Health may revoke the license of any institution found in violation of the licensing law or these regulations.

205.1 *Reissuance of License:* If a license is revoked, a new application for a license will be considered by the State Board of Health when the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished.

SECTION F—RETURN OF LICENSE CERTIFICATE: Each license shall be returned by the licensee to the State Board of Health immediately upon its revocation, or when the nursing home voluntarily ceases operation.



Part III

ADMINISTRATION

SECTION A—ADMINISTRATIVE MANAGEMENT

- 301.1 *Administrative Policies and Procedures* shall be designed to meet the needs of each nursing home and its patients.
- 301.2 *Activity Not Related to Nursing Home Operations*: No part of the licensed nursing home may be rented, leased, or used for any purpose not related to the operation of same.
- Only those persons actively engaged in the operation of the nursing home shall be permitted to reside therein.
- 301.3 *Admission Policies*:
- Types of Patients*: Nursing homes shall not admit the following types of patients: surgical, maternity, or acutely ill; those suffering from contagious diseases, acute or chronic alcoholism; or persons addicted to narcotics.
 - Medical Examination* by a physician licensed in West Virginia shall be given each patient within seven days prior to, or within seventy-two hours after, admission. The results of this examination, including the diagnosis, shall be recorded in the patient's medical record.
 - Responsible Party*: The patient or his assignee shall sign all admission forms at the time of admission.
 - Designation of Private Physician*: Each person shall be permitted to designate a licensed physician of his choice.
- 301.4 *Inventories for Patients' Personal Effects*: Items entrusted to the nursing home for safe keeping shall be inventoried and properly stored by the licensee or a responsible designee.
- 301.5 *Fraud or Misrepresentation* to secure money or property from patients, or persons applying for admission, will be reported to the county prosecuting attorney or the attorney general of West Virginia for further investigation and prosecution.

SECTION B—RECORDS AND REPORTS

- 302.1 *Admission Records* shall be completed immediately upon the patient's admission and shall contain the following in-

formation: date; time of admission; patient's name; diagnosis; marital status; age; sex; home address; religion and name of minister; name and address of attending physician; and name, address, and telephone number of closest relative or person to contact in case of emergency. This record shall be signed by the patient or his agent and the nursing home employee responsible for admissions.

- 302.2 *Medical Record* files, for each patient, shall contain: (1) identification data; (2) date of admission and discharge; (3) diagnosis; (4) nurses' notes; (5) physician's written orders, dated and signed by the physician; (6) reports of physical and special examinations; (7) progress notes; (8) written nursing care plan (502.1, b.[2]); (9) physician's consultative reports; (10) condition on discharge; and (11) name of mortician in case of death.

Medical records shall be kept up to date and remain at the nurses' station for a period of three months or until the patient expires or is discharged. They are then placed in the patient's individual file.

- 302.3 *Patient's Individual File* shall be established on admission and maintained in the business office. This file shall contain the patient's admission record, inventory of personal effects, financial record, medical records transferred from the nurses' station, and all other pertinent information.

Patients' records are confidential and access shall be limited to designated staff members, physicians, and State Board of Health representatives.

- 302.4 *Personnel Records* shall be maintained with appropriate information on each employee, including health certificates and physical examination reports.

- 302.5 *Record Retention*: Patients' records shall be kept current daily from the time of admission to the time of discharge or death, and shall then be filed for a period of five years before being destroyed. Records relating to licensure shall be kept for a period of five years before being destroyed.

- 302.6 *Vital Statistics Reports*:

- A complete list of all deaths, occurring within the month, shall be reported to the Division of Vital Statistics, State



Department of Health, by the tenth of the following month, on special blanks provided for this purpose. Should no deaths occur during the month, the report shall be submitted, indicating no deaths.

- b. Communicable disease reports shall be filed with the local health officer within twenty-four hours after the disease is discovered.

302.7 *Annual Reports* shall be submitted to the State Board of Health on forms which will be supplied for this purpose.

SECTION C—STAFFING NURSING HOMES

303.1 *The Administrator*, if not the licensee, shall be appointed by the licensee. The administrator shall designate an individual who, in his absence but under his supervision, will perform all the necessary duties of this position. The administrator and his representative each shall be at least 21 years of age, of reputable and responsible character, and otherwise qualified. At no time shall a nursing home be left without competent administrative direction.

303.2 *Personnel Requirements*: No person under the age of 18 shall be employed. There shall be on duty at all times sufficient personnel to render proper patient care and all related services.

303.3 *Physical Examinations*:

- a. All persons engaged in the handling or serving of food shall obtain a Food Handlers Permit from the local health department prior to employment and it shall be renewed annually. A copy of such permit shall be retained in the files of the nursing home and available for inspection upon request.
- b. Personnel absent from duty because of any communicable disease shall not return to duty until a physician has declared them fully recovered.

Part IV

PHYSICAL FACILITIES

SECTION A—SITE SELECTION

401.1 *Scope*: The provisions of this section shall apply to all nursing homes coming into existence after the effective date of these regulations. If changes, necessary for compliance with the new regulations, would create undue hardship, existing nursing homes may be governed by previously established requirements that have been approved by the State Board of Health.

401.2 *Location*: The nursing home shall be accessible to physicians' services medical facilities, and located within the service area of a fire department. There shall be good drainage, approved sewerage disposal, safe water supply, electricity, telephone, and other necessary facilities available on or near the site.

401.3 *Local Building Codes and Zoning Restrictions* shall be observed. Evidence to this effect, signed by local fire, building, and zoning officials, shall be available. Where local codes or regulations permit lower standards than required by these regulations, the standards contained herein shall govern.

401.4 *Environment*: Newly established nursing homes shall be located in an environment which is free from excessive noises from railroads, freight yards, traffic arteries, schools, playgrounds, and airports. The site shall not be exposed to smoke, foul odors, or dust.

401.5 *Transportation* shall be facilitated by roads which are kept passable at all times. There shall be walks and parking areas provided.

401.6 *Site Inspection*: An inspection of the proposed nursing home location shall be requested in writing and an approval shall be obtained from the State Department of Health before construction is started or a nursing home facility is established in an existing building.

SECTION B—NEW CONSTRUCTION

402.1 *Regulations Adopted*: For construction of new institutions, the State Board of Health has adopted Appendix "A" of the



Public Health Service Regulations, Part 53, Subpart M, General Standards of Construction and Equipment, pertaining to the Hospital Survey and Construction Act, as amended.

- 402.2 *Plans and Specifications:* Detailed plans, drawn to scale of not less than one-eighth inch equals a foot, shall be submitted to and approved by the State Department of Health before construction is started. These plans and specifications shall be signed by an architect registered in West Virginia and shall show, properly identified, the general arrangement and construction of the building and location of all fixed equipment. It is recommended that preliminary drawings and outline specifications be submitted for approval prior to preparation of working drawings.

SECTION C—ADDITIONS AND ALTERATIONS

- 403.1 *Scope:* Additions and alterations to all nursing homes shall conform to the minimum standards for new construction.
- 403.2 *Plans and Specifications:* Before making any structural changes to existing licensed institutions, the licensee shall be responsible for advising the State Department of Health, in writing, as to what is intended. Upon the Department's request, there shall be submitted such plans, specifications, or other information as may be required to approve the proposed changes.

SECTION D—CONVERSION OF EXISTING BUILDINGS, or portions thereof, for use as a nursing home shall be required to meet all standards as set forth for new construction.

SECTION E—GENERAL BUILDING, SPACE, EQUIPMENT, SAFETY, SANITATION, HOUSEKEEPING, AND MAINTENANCE REQUIREMENTS

- 405.1 *Scope:* The provisions of this section shall apply to all existing nursing homes and those coming into existence after the effective date of these regulations. If changes, necessary for compliance with the new regulations, would create undue hardship, existing nursing homes may be governed by previously established requirements that have been approved by the State Board of Health.
- 405.2 *Structural Soundness and Repair:* The building shall be structurally sound, in good repair, and painted at sufficient intervals to remain reasonably attractive inside and out.

- 405.3 *Walls and Ceiling* shall be of a smooth surface that will permit frequent washing and painting.

Kitchen walls shall be without horizontal ledges.

Ceiling heights shall be a minimum of eight feet.

- 405.4 *Floors* shall be smooth, non-absorbent, and constructed for easy and effective cleaning.

- 405.5 *Doors* to external exits shall swing outward, be equipped with panic hardware, and free of any obstruction. A warning device that sounds when the door opens should be installed.

Bedroom doors shall be hung to open into the room and bathroom doors hung to open outward. Neither shall be equipped with hardware that will permit a patient to lock himself within the room.

All doors shall be sufficiently wide to permit removal of the occupied bed.

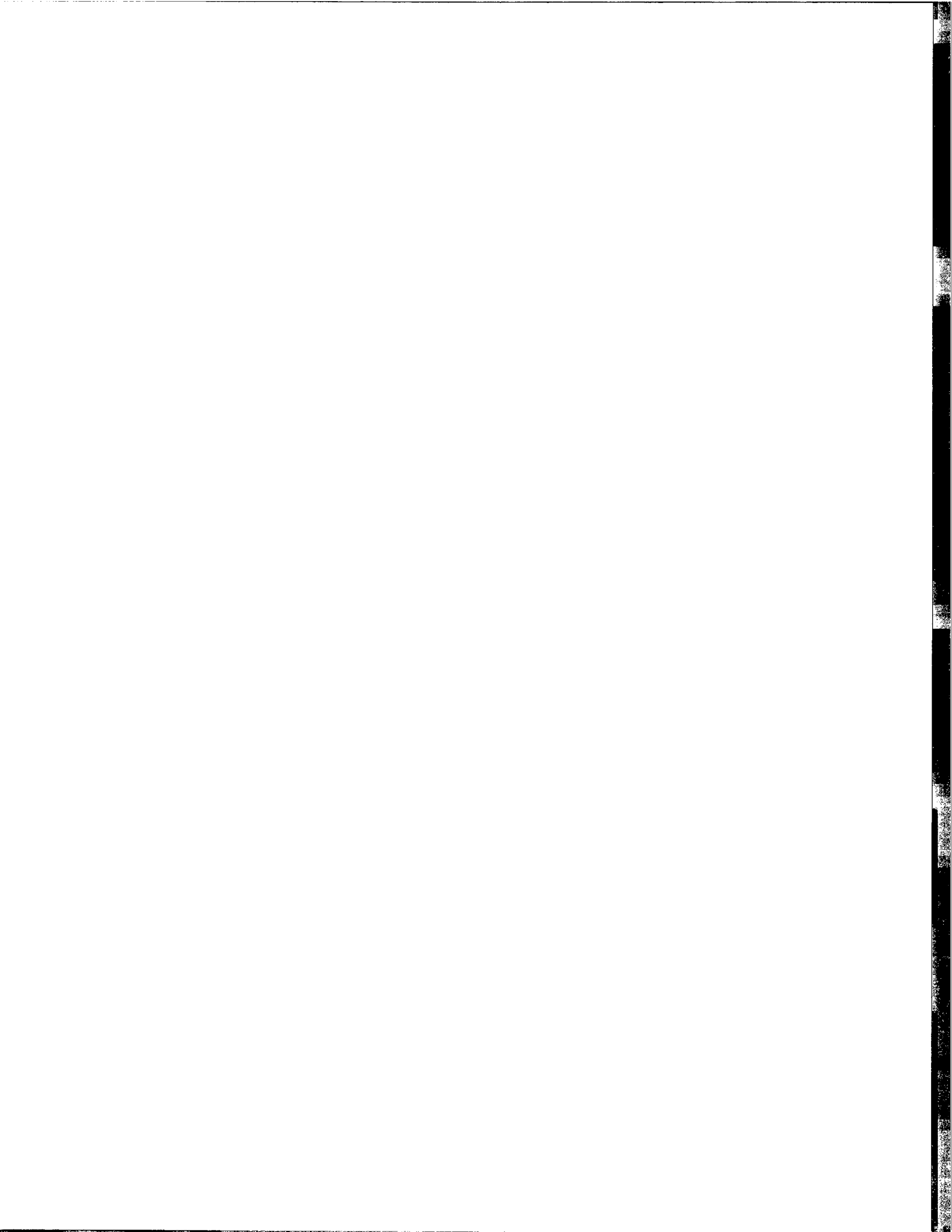
- 405.6 *Windows* shall be constructed and maintained to fit snugly, yet can be opened and closed easily.

Window area in patients' rooms shall not be less than one-eighth of the floor space.

- 405.7 *Outer Openings* shall be screened to prevent entrance of insects, and shall be protected against entrance of rain and snow. Screen doors shall swing outward and be self-closing. Window screens shall be designed and installed so as not to block exit in case of emergency.

- 405.8 *Corridors, Stairways, and Elevators* shall be of a width and design that will easily accommodate the removal of patients by stretcher. They shall be constructed and maintained in compliance with all safety regulations and requirements.

- 405.9 *Ramps and Inclines* shall not be less than 42" wide nor steeper than one foot of rise in eight feet of run, and shall be finished with a non-slip surface.



405.10 *Handrails* shall be installed in all hallways, ramps, inclines, corridors, and passageways used by patients. Sturdily constructed porch rails, not less than 40" in height, shall be installed where they are necessary to insure the patients' safety.

405.11 *Patients' Rooms* shall have an outside exposure through a vertical transparent window with no substantial line of sight obstruction within twenty feet and the room shall communicate directly with a corridor. Rooms extending below ground level shall not be used for patients unless specifically approved by the State Department of Health.

a. The minimum floor space per bed shall be:

- (1) Rooms for only one bed 100 sq. ft.
- (2) Room for two or more beds 80 sq. ft. per bed
- (3) There shall be sufficient space to permit nursing procedures and to permit placing of beds at least three feet apart and two feet from the wall at the side of the bed.

b. Equipment and Furnishings Shall Include:

- (1) A bed, for each patient, substantially constructed, not less than 36" wide, and in good repair. Each non-ambulant patient shall be provided with a hospital-type bed. Rollaway beds, folding beds, and cots shall not be used. Bed springs and mattress shall be in good repair and fit the bed.
- (2) At least one clean, comfortable pillow for each bed. Additional pillows shall be available to meet the needs of the patient.
- (3) A bedside stand with a drawer to accommodate toilet articles and individual utensils for each patient.
- (4) Reasonable closet and drawer space for clothing and personal items currently being used by the patient.
- (5) Cubicle curtains or screens to provide privacy, individual towel and wash cloth racks, comfortable chairs as needed, window shades, and curtains or draperies in good condition.

405.12 *Special Care Rooms:* There shall be well-ventilated special care rooms maintained ready for immediate occupancy for patients suspected of, or diagnosed as, having a communicable or infectious disease; those who develop acute illnesses and need to wait a short period before being transferred to a hospital; or those who may become disturbing to others.

Special care rooms shall be equipped with, or have accessible, a toilet and hand washing facilities that can be isolated from use by other patients and personnel.

These rooms shall meet all applicable standards previously set forth for one-bed patient rooms.

405.13 *Bathing and Toilet Facilities for Patients* shall be provided in the minimum ratio of one toilet and one lavatory for every eight patients and one tub or shower for every fifteen patients, or fraction thereof. There shall be separate facilities for each sex. Grab bars, conveniently located, shall be installed at commodes and bathing facilities used by patients. Skidproof mats shall be used in all bathtubs and showers.

All bathing and toilet facilities shall be kept clean, sanitary, and in proper working order. Storage or laundering of soiled linen in bathtubs, shower stalls, or lavatories is prohibited.

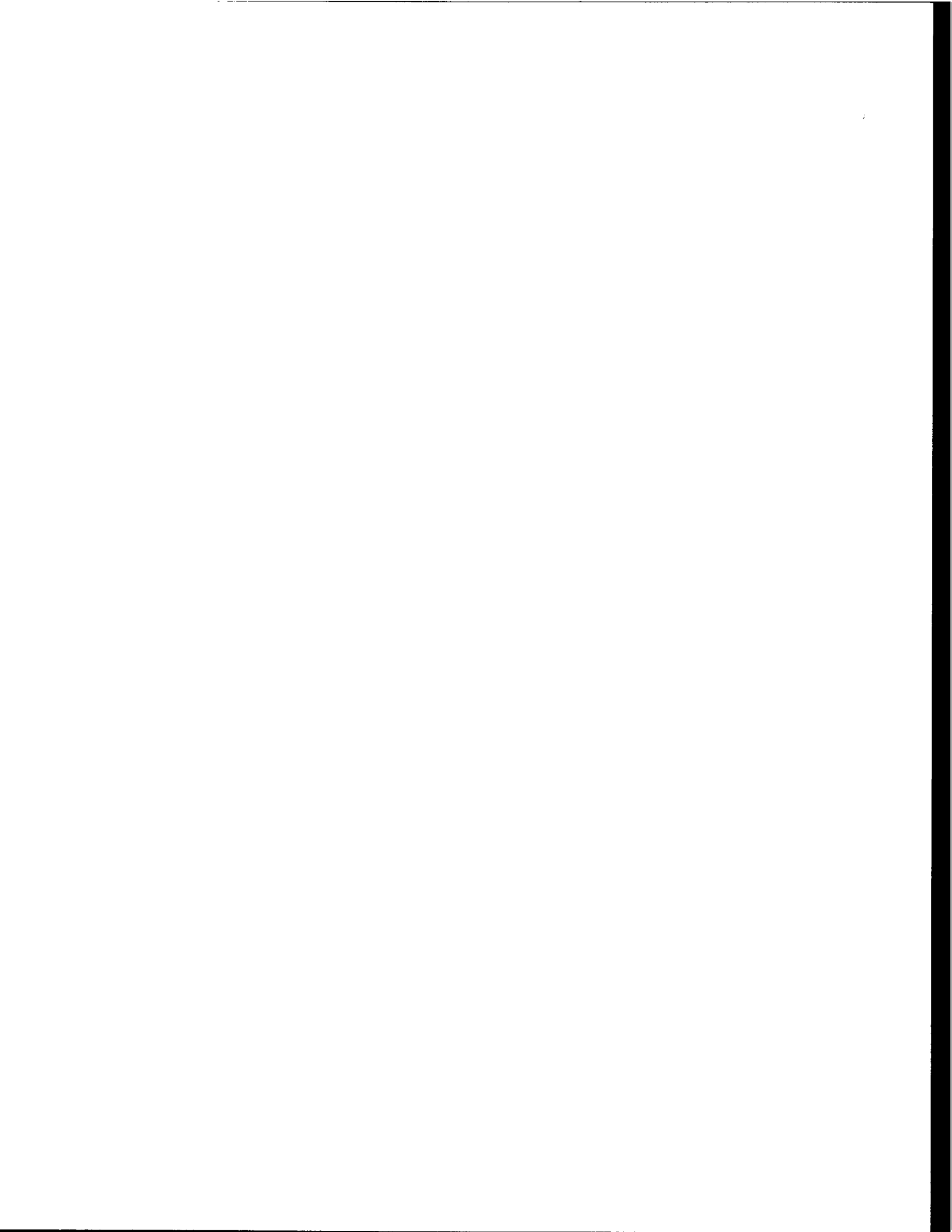
405.14 *Employee and Public Toilets* shall be provided in separate facilities for each and shall not be used by patients. These facilities shall not open directly into the food service area.

405.15 *Nurses' Stations* shall be centrally located, in relation to the beds served. They shall be large enough to accommodate such equipment as a charting desk, chairs, chart rack, and telephone.

405.16 *Nursing Equipment, Sterile Supplies, and Linens:*

a. *Nursing Equipment*, sufficient in quantity to meet patients' needs, shall include:

- (1) Wash basins, bedpans, urinals, emesis basins, and drinking glasses for the use of each individual patient; provided that where utensils are sterilized after each use they need not be kept individual.



Chipped enamelware and damaged utensils shall not be used.

- (2) Thermometers sufficient in number to permit disinfection before using.
- (3) Hot water bottles with suitable covers. If electric heating pads are used, they shall be maintained in safe working order.

- b. *Sterile Supplies and Equipment* shall be stored in a cabinet, cupboard, or other suitable enclosed space.
- c. *Linens*: A closet shall be provided on each nursing unit for the storage of clean linen. Sufficient quantities shall be available to nursing personnel to assure the cleanliness and comfort of each patient.

Individual towels, wash cloths, and bath blankets must be provided for each patient.

Bedpan and urinal covers shall not be used interchangeably.

Mattress covers shall be provided for each mattress.

If electric blankets are used, they shall be checked periodically and maintained in safe working order.

- d. *Storage Space* for nursing equipment and sterile supplies shall be removed from patients' contact, kept stocked and in order by a definitely arranged plan, so that contents are kept clean and conveniently available to the nursing staff.

- 405.17 *Utility Room*: There shall be at least one well-illuminated and ventilated utility room in each patient area which is conveniently located and arranged for safe conduct of work.

There shall be adequate facilities and equipment for cleaning, sterilizing or sanitizing, and storing utensils for patient care. Only the commode or bedpan hopper shall be used for emptying bedpans, etc. The bathtub, lavatory, or laundry tray shall not be used for cleaning bedpans and similar equipment.

- 405.18 *Recreation Area*: Nursing homes shall provide adequate space where patients may receive visitors in reasonable

privacy, participate in group entertainment, or pursue occupational therapy programs.

- 405.19 *Dining Room*: Nursing homes shall provide an adequately furnished dining room for use by all patients who are able to go to the table, even though they may require assistance in feeding themselves or in getting to and from the room.

- 405.20 *Kitchen Areas* must meet the requirements of the State Department of Health governing the sanitation of eating and drinking establishments adopted by the State Board of Health, September 8, 1950.

- 405.21 *Food Service*: Meal service shall be attractive and provisions made to serve hot food hot and cold food cold. Texture of food shall be given special attention when served to patients with no dentures, ill-fitting dentures, or impaired teeth.

- a. *Meal Hours and Tray Service*: At least three meals per day shall be served. Not more than 14 hours shall elapse between a substantial evening meal and breakfast, or less than 10 hours between breakfast and a substantial evening meal.

Trays served to patients in their rooms shall be provided with firm supports.

Patients who require assistance with eating shall be served promptly at regular dining hours. Special effort shall be made to offer fluids to patients at frequent intervals when the patient is unable to obtain fluids for himself.

- b. *Menu Planning*: Menus shall be planned and written at least one week in advance. They shall be posted in the kitchen for easy use by workers, then filed for reference by personnel and State Department of Health representatives.

The following foods and amounts are considered minimum nutritional requirements, and shall be served daily as the "Regular Diet."

- (1) *Milk group*: One quart of milk or its equivalent. Cheese, cottage cheese, or ice cream may be used as part of the milk allowance, and part may be used in cooking.



- (2) *Meat group*: Two or more servings of lean meat, fish, poultry, eggs, or cheese, with dried beans or peanut butter as occasional alternates.
 - (3) *Vegetables*: Two or more servings, including a yellow or leafy green vegetable at least four times each week.
 - (4) *Fruits*: Two or more servings, at least one of which shall be a citrus fruit or tomato.
 - (5) *Bread and cereals*: One or more servings each meal.
- c. *Special Diets* shall be served to patients in accordance with physicians' written orders. The diet order shall be posted in the kitchen and retained in file as noted in the preceding item b.
- An approved diet manual should be available in the nursing home.
- 405.22 *Laundry*: Unless commercial service is used, the nursing home shall provide a laundry room, properly located and equipped for the cleaning of linen and other washable goods, with special provisions for handling and disinfecting contaminated linen. There shall be ventilation for the elimination of steam and odors, as well as proper insulation to prevent the transmission of noise to the patient areas. Equipment shall be provided with all necessary safety appliances and shall meet all sanitary requirements. Separate facilities must be available if patients are permitted to do their personal laundry and shall include a washing machine, laundry tub, electric iron, and ironing board.
- 405.23 *Lighting*: Each patient's room shall have artificial light adequate for reading and proper patient care. Throughout the institution, natural and artificial lighting shall be of sufficient intensity to prevent accidents and promote efficiency of service. Night lights shall be provided in all passageways and bathrooms.
- Emergency lighting facilities shall be in readiness for use at all times throughout the institution.
- 405.24 *Temperature to be Maintained*: The heating system shall be capable of maintaining a temperature of 75° F. throughout the patients' section of the building.

All combustion-type heating devices shall be vented in such a manner that noxious gases shall be carried to the outside of the building above the eaves of the roof.

Stoves and individual heaters are prohibited in new nursing homes. However, if present in existing institutions, they must be equipped with accepted devices to insure safety of patients and personnel.

- 405.25 *Ventilation*: The building shall be adequately ventilated at all times. Special attention shall be given to the ventilation of patients' quarters so as to supply fresh air and to prevent accumulation of objectionable odors. The kitchen should be provided with exhaust systems which will discharge the air above the main roof, remote from any window or venting intake system. Toilets without outside window ventilation shall not be used unless there is an adequate system of forced ventilation.
- 405.26 *Signal System*: An adequate signal system shall be provided and maintained for each patient to be used in calling nurses and attendants.
- 405.27 *Fire Protection*: All nursing homes shall comply with all laws of the State of West Virginia, and all rules and regulations which provide minimum standards for the prevention of fire and for the protection of life and property against loss of damage by fire or panic. A certificate of approval shall be obtained from the State Fire Marshal by any nursing home required to be licensed. A copy of such certificate of approval shall be filed with the State Department of Health, and a copy of such certificate shall be posted in a conspicuous place on the premises of the licensee.
- 405.28 *Evacuation Plan*: There must be accessible, to all employees, an approved written procedure to be followed in case of fire or other emergency.
- 405.29 *Sanitation, Housekeeping, and Maintenance*:
- a. *Water Supply and Sanitation*: No system of water supply, plumbing, sewage, garbage, or refuse disposal shall be installed, nor any such existing system be materially altered or extended, until complete plans and specifications, together with such other information as may be



required, have been submitted to and approved by the State Department of Health. All such construction shall be in accordance with the approved plans.

Existing systems of water supply, plumbing, sewage, garbage, or refuse disposal shall be approved by the State or local department of health or both.

Water supply requirements shall include adequate provisions for fire protection.

There shall be a sufficient supply of hot water available at all times.

b. *Incineration:* Adequate facilities shall be provided for the disposal of infected dressings and other similar materials. Incinerators shall be constructed, operated, and maintained in such a manner so as not to create nuisances. Ashes and non-combustible material shall be removed frequently and disposed of according to methods approved by the State Department of Health.

c. *Housekeeping and Maintenance* are required to be such that safe, comfortable, and sanitary living conditions for patients and employees are maintained constantly.

Accumulated waste material shall be removed daily or more frequently if necessary.

Stairwells and corridors shall be kept free from obstruction at all times.

The grounds shall be kept in sanitary, safe, and presentable condition.

There shall be sufficient supplies and equipment, properly stored and conveniently located, to permit frequent cleaning of floors, walls, woodwork, windows, and screens and to facilitate all necessary building and grounds maintenance.

Part V

PATIENT CARE

SECTION A—MEDICAL AND DENTAL SERVICES

501.1 *Physician:* Each nursing home shall have a physician duly licensed in West Virginia, who agrees to serve the patients in the nursing home. He, or another physician designated by him, shall be on call and available at all times.

501.2 *Dentist:* Each nursing home shall have a dentist, duly licensed in West Virginia, who agrees to give emergency dental care to the patients as needed. The nursing home administrator shall cooperate with representatives of local Health Departments and the Division of Dental Health of the State Department of Health in making surveys to determine the dental needs of the patients and the promotion of dental education and treatment programs.

501.3 *Medications and Treatments* shall be administered only on a physician's order which has been written and signed in ink by the physician. Orders by telephone are permissible if signed by the physician within twenty-four hours. Orders shall be preserved on the patients' charts.

Physicians' written orders shall be obtained for discontinuance of all medications and treatments.

501.4 *Restraints and Seclusion:* A physician's written order shall be the only authorization for restraining a patient. Orders by telephone are permissible if signed by the physician within twenty-four hours.

Methods of restraint shall permit speedy removal in cases of fire or other emergency.

The patient under restraint shall have his position changed, and the restraints removed momentarily, every two hours.

Side rails are excluded from this requirement.

No form of seclusion shall be permitted.

501.5 *Physical Therapy* treatments should be instituted and maintained, to rehabilitate patients likely to benefit from such treatments, in accordance with the determination and under the supervision of the attending physician.



SECTION B—NURSING SERVICES

502.1 *Supervising Registered Nurse:* There shall be an organized department of nursing under the supervision of a graduate nurse currently registered in West Virginia.

Responsibilities of the supervising registered nurse shall include:

- a. Daily visits to the nursing home, availability for patient care and emergencies at all times, and administration of all medications and treatment.
- b. A brief report of each of her visits to the nursing home.

This report shall include:

- (1) The date and time of arrival.
 - (2) A statement that a nursing care plan has been written and instigated, according to physician's orders, for each patient admitted to the home since her last visit.
 - (3) The time of her departure from the home.
- c. Assurance of safe and competent patient care by nursing personnel who have been thoroughly instructed and trained in their delegated duties.
 - d. Making available, to all nursing personnel, written rules, regulations, policies, and procedures that will serve as a guide for all nursing services, including isolation techniques.
 - e. Maintaining a system of nurses' clinical records.
 - f. A written notice, upon termination of services, is to be given to the administrator, allowing sufficient time to secure a replacement.

502.2 *Nursing Care:*

- a. *Daily Care* shall include attention to the patients' personal needs to insure their comfort, cleanliness, and neat appearance.

Each patient shall be out of bed sometime during the day, unless his physician's written orders are to the

contrary. There shall be established, for each patient, a written program for increasing activity and self-help.

Hourly visits shall be made to patients who cannot use a call system.

Incontinent patients shall have partial baths, with a change of bed linen and clothing, each time the bed or clothing is wet or soiled.

- b. *Periodic Care* shall include, as a minimum, baths once a week for ambulant patients and every other day for non-ambulant patients.

Bed and bath linens shall be changed as often as necessary to keep patients clean and dry and to prevent objectionable odors.

Special care and attention shall be given to the skin, feet, and toenails of diabetic patients. Any discolored area or break in the skin shall be reported to the physician at once.

- c. *Oxygen* shall be administered only by trained personnel and by order of a physician.

Smoking, open flame, or woolen blankets are prohibited in any room where oxygen is in use.

Oxygen cylinders shall be secured in such a way to prevent falling from a vertical position.

- d. *Isolation:* Any person who contracts a contagious disease shall not remain in the nursing home any longer than is necessary to be transferred to a hospital. During this time, the patient shall be placed in strict isolation.

502.3 *Report of Illness, Accident, or Death:* Any serious illness, accident, or death shall be reported immediately to the physician and to the family or guardian of the patient.

SECTION C—PHARMACEUTICALS

503.1 *Storage and Protection:* All pharmaceuticals shall be stored in locked cabinets which are accessible only to specifically authorized nursing personnel. Cabinets shall be located in an area which is adequately lighted by artificial illumination.



- 503.2 *Narcotics and Barbiturates* are allowed only on an individual prescription basis and shall be kept under double lock.
- 503.3 *Labeling of Pharmaceuticals*: All medications shall be kept in their original containers which must be clearly and adequately labeled. Any container having a soiled or illegible label should be returned to a pharmacist for relabeling.
- 503.4 *Disposition of Pharmaceuticals*: Pharmaceuticals belonging to patients should be given to them when discharged or transferred if so authorized, in writing, by their physician. Unused pharmaceuticals not given to discharged patients must be destroyed, or disposed of as directed below.
- a. Narcotics and barbiturates shall be disposed of in accordance with Federal and State laws and regulations.
- 503.5 *Medicines Requiring Refrigeration* shall be kept in a completely segregated section of a suitable refrigerator.

LICENSING LAW

Chapter 16, Code of West Virginia, 1931, as amended

ARTICLE 5-B—HOSPITALS AND SIMILAR INSTITUTIONS

- Section 1—Hospitals and other institutions affected.
- Section 2—Existing hospitals and institutions to obtain licenses.
- Section 3—Application for licenses.
- Section 4—License fees.
- Section 5—Inspection.
- Section 6—State department of health to issue licenses.
- Section 7—Judicial review.
- Section 8—State department of health to establish standards.
- Section 9—Appointment and term of office of advisory board members.
- Section 10—Information not to be disclosed except in certain cases.
- Section 11—Violations; penalties; separability.
- Section 12—Injunction—severability of article.

SECTION 1—HOSPITALS AND OTHER INSTITUTIONS AFFECTED: After July one, one thousand nine hundred forty-eight, no person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof shall establish, conduct, or maintain in the state of West Virginia any hospital, sanatorium, rest home, nursing home, or other institution having five or more beds for the hospitalization or care of the sick or injured or for the care of any human being requiring or receiving chronic or convalescent care without first obtaining a license therefor in the manner hereinafter provided. Hospitals operated by the federal government or the state government shall be exempt from the provisions of this article.

Hospital, sanatorium, rest home, nursing home, and other related institutions within the meaning of this article, shall mean any institution, place, building, or agency in which an accommodation of five or more beds is maintained, furnished or offered for the hospitalization of the sick or injured or care of any persons requiring or receiving chronic or convalescent care. Nothing contained in this article, however, shall apply to hotels or other similar places that furnish to their guests only board and room, or either of them.

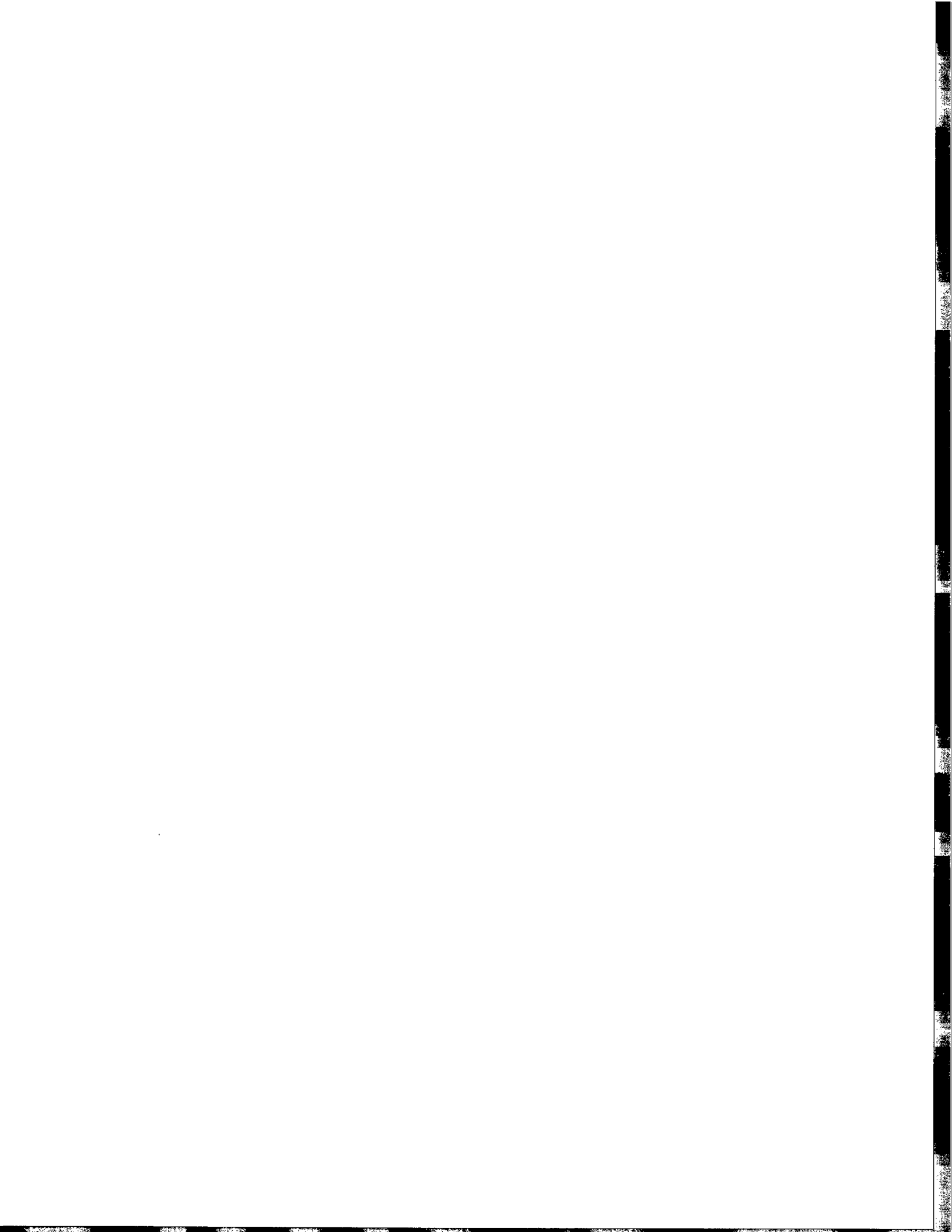


Nothing in this article shall authorize any person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof to engage in any manner in the practice of medicine, as defined by law. This article shall not be construed to restrict or modify any statute pertaining to the placement or adoption of children.

SECTION 2—EXISTING HOSPITALS AND INSTITUTIONS TO OBTAIN LICENSES: No person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof may continue to operate an existing hospital, sanatorium, rest home, nursing home, or related institution or open a hospital, sanatorium, rest home, nursing home, or related institution after July one, one thousand nine hundred forty-eight, unless such operation shall have been approved and regularly licensed by the state as hereinafter provided.

Before a license shall be issued under this article, the person applying, if an individual, shall submit evidence satisfactory to the state department of health that he is not less than twenty-one years of age, of reputable and responsible character, and otherwise qualified. In the event the applicant is an association, corporation or governmental unit, like evidence shall be submitted as to the members thereof and the persons in charge. Every applicant shall, in addition, submit satisfactory evidence of his ability to comply with the minimum standards and with all rules and regulations lawfully promulgated hereunder.

SECTION 3—APPLICATION FOR LICENSES: Any person, partnership, association, or corporation, or any local governmental unit or any division, department, board or agency thereof desiring a license hereunder shall file with the state department of health a verified application stating the name of the applicant, and if the applicant is an individual, his age; the type of institution to be operated; the location thereof; the name of the person in charge thereof; and such other information as the state department of health may require. An application on behalf of a corporation, association or governmental unit shall be made by any two officers thereof or by its managing agents and shall contain like information.



APPENDIX "A"

Extracted portions of Enrolled House Bill 192, introduced by Delegate Elizabeth Drewry (D-McDowell), passed February 18, 1963, signed by Governor Barron February 23, 1963, in effect on July 1, 1963. Amends hospital licensing law as indicated.

(New provisions are underlined and the underlining is ours)

".....All licenses

15 issued under this article shall expire on the thirtieth day
16 of June following their issuance, shall be on a form pre-
17 scribed by the state department of health, shall not be
18 transferable or assignable, shall be issued only for the
19 premises named in the application, shall be posted in a
20 conspicuous place on the licensed premises, and may be
21 renewed from year to year upon application; investiga-
22 tion, and payment of the license fee, as in the case of the
23 procurement of an original license: Provided, That any
24 such license in effect on the thirtieth day of June of any
25 year, for which timely application for renewal, together
26 with payment of the proper fee, has been made to the
27 state department of health in conformance with the pro-
28 visions of this article and the rules and regulations issued
29 thereunder, and prior to the expiration date of such li-
30 cence, shall continue in effect until (a) the thirtieth day
31 of June next following the expiration date of such license,
32 or (b) the date of the revocation or suspension of such
33 license pursuant to the provisions of this article, or (c)
34 the date of issuance of a new license, whichever date
35 first occurs....."

*This Amendment
to be inserted
in the Odd Size
Page under
regulations,
standards and
licensing fees
for Nursing
Homes, Page -
25, section 4 -
licensing fees,
as inserted
by the act.*



Nothing in this article shall authorize any person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof to engage in any manner in the practice of medicine, as defined by law. This article shall not be construed to restrict or modify any statute pertaining to the placement or adoption of children.

SECTION 2—EXISTING HOSPITALS AND INSTITUTIONS TO OBTAIN LICENSES: No person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof may continue to operate an existing hospital, sanatorium, rest home, nursing home, or related institution or open a hospital, sanatorium, rest home, nursing home, or related institution after July one, one thousand nine hundred forty-eight, unless such operation shall have been approved and regularly licensed by the state as hereinafter provided.

Before a license shall be issued under this article, the person applying, if an individual, shall submit evidence satisfactory to the state department of health that he is not less than twenty-one years of age, of reputable and responsible character, and otherwise qualified. In the event the applicant is an association, corporation or governmental unit, like evidence shall be submitted as to the members thereof and the persons in charge. Every applicant shall, in addition, submit satisfactory evidence of his ability to comply with the minimum standards and with all rules and regulations lawfully promulgated hereunder.

SECTION 3—APPLICATION FOR LICENSES: Any person, partnership, association, or corporation, or any local governmental unit or any division, department, board or agency thereof desiring a license hereunder shall file with the state department of health a verified application stating the name of the applicant, and if the applicant is an individual, his age; the type of institution to be operated; the location thereof; the name of the person in charge thereof; and such other information as the state department of health may require. An application on behalf of a corporation, association or governmental unit shall be made by any two officers thereof or by its managing agents and shall contain like information.

The application shall be on a form prescribed, prepared and furnished by the state department of health.

SECTION 4—LICENSE FEES: The application by any person, partnership, association, corporation or local governmental unit for a license to operate a hospital, sanatorium, rest home, nursing home, or related institution within the meaning of this article shall be accompanied by a fee to be determined by the number of beds available for patients, according to the following schedule of fees: Those with five beds but less than fifty beds shall pay a fee of twenty dollars; those with fifty beds or more and less than one hundred beds shall pay a fee of thirty dollars; those with one hundred beds or more and less than two hundred beds shall pay a fee of forty dollars; and those with two hundred beds or more shall pay a fee of fifty dollars. No such fee shall be refunded. All licenses issued under this article shall expire on the thirtieth day of June following their issuance, shall be on a form prescribed by the state department of health, shall not be transferable or assignable, shall be issued only for the premises named in the application, shall be posted in a conspicuous place on the licensed premises, and may be renewed from year to year upon application, investigation, and payment of the license fee, as in the case of the procurement of an original license. All fees received by the state department of health under the provisions of this article shall be paid into the state treasury general revenue fund.

SECTION 5—INSPECTION: Every building, institution or establishment for which a license has been issued shall be inspected periodically by a duly appointed representative of the state department of health under rules and regulations to be promulgated by the department. Inspection reports shall be prepared on forms prescribed by the state department of health. Institutions licensed hereunder shall in no way be exempt from being inspected or licensed under the laws of this state relative to hotels, restaurants, lodging houses, boarding houses and places of refreshment.

SECTION 6—STATE DEPARTMENT OF HEALTH TO ISSUE LICENSES: The state department of health is hereby authorized to issue licenses for the operation of hospitals, sanatoriums, rest homes, nursing homes, or other related institutions as here-



Virginia, to assist in the establishment of rules, regulations and standards necessary to carry out the provisions of this article and to serve as consultants to the state board of health. The advisory board shall meet at least twice each year and at the call of the state board of health. The members of the advisory board shall annually elect one of its members to serve as chairman.

The advisory board shall be appointed by the governor by and with the consent of the senate. Of the seven members of the board, four shall be persons who are well-versed in hospital organization and administration, and the remaining three shall be chosen from persons of recognized ability in the fields of medicine and surgery, nursing, welfare, public health, architecture, or allied professions in the field of health, or consumers of hospital services.

The members shall be appointed for seven year terms except that in the original appointments one person shall be appointed for one year, one person for two years, one person for three years, one person for four years, one person for five years, one person for six years, and one person for seven years. Thereafter each member shall be appointed to serve seven years or until his successor is appointed. In the case of a vacancy the appointee shall serve the remainder of the unexpired term.

Members of the advisory board shall be eligible to succeed themselves. Members of the advisory board shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of their office.

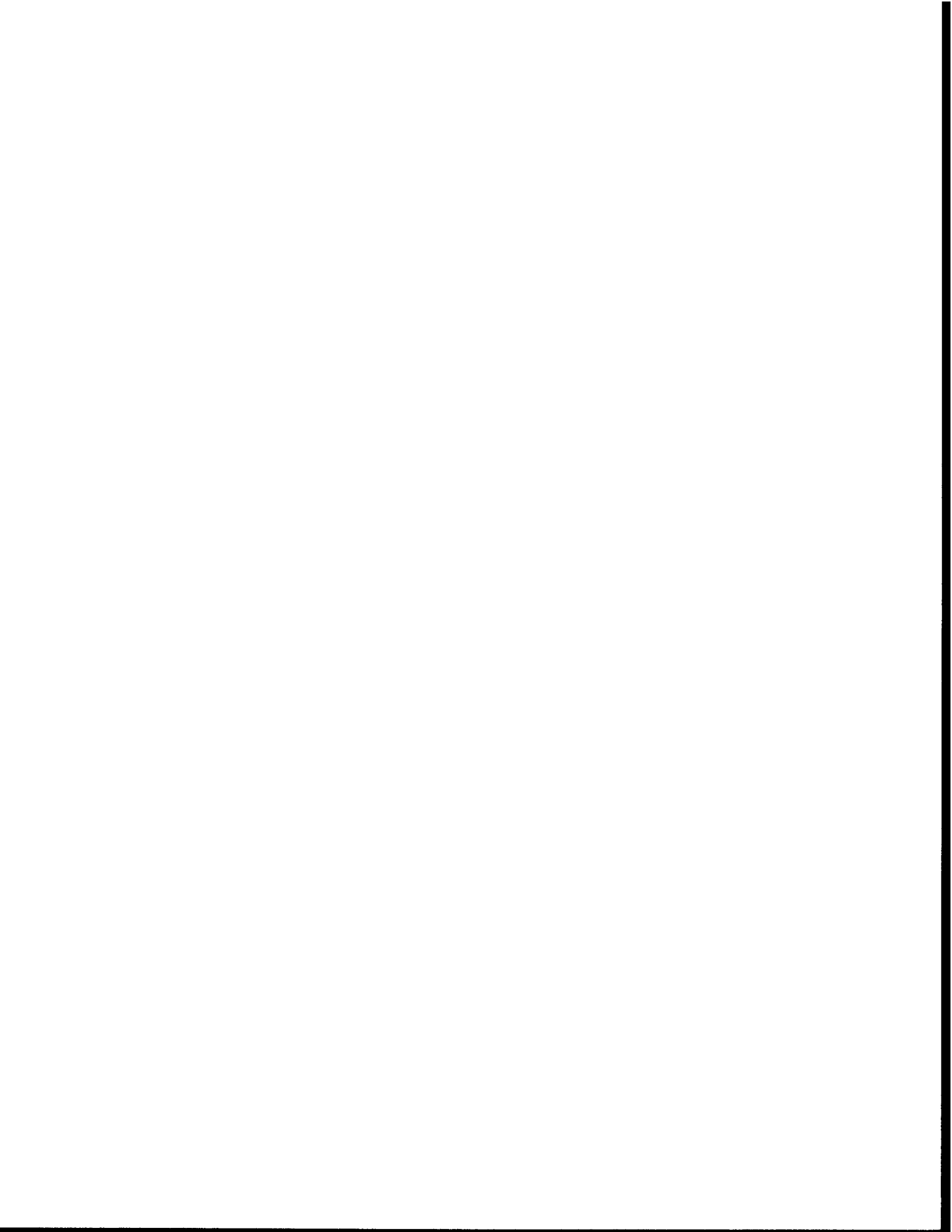
SECTION 10—INFORMATION NOT TO BE DISCLOSED EXCEPT IN CERTAIN CASES: Information received by the state department of health under the provisions of this article shall be confidential and shall not be publicly disclosed except in a proceeding involving the question of the issuance or revocation of a license.

SECTION 11—VIOLATIONS; PENALTIES; SEPARABILITY: Any person, partnership, association, or corporation, and any local governmental unit or any division, department, board or agency thereof establishing, conducting, managing, or operating a hospital, sanatorium, rest home, nursing home, or institution

within the meaning of this article, without first obtaining a license therefor as herein provided, or violating any provision of this article or any rule or regulation lawfully promulgated thereunder, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. For each subsequent offense the fine may be increased to not more than five hundred dollars, with imprisonment in the county jail for a period of not more than ninety days, or both such fine and imprisonment in the discretion of the court. Each day of a continuing violation after conviction shall be considered a separate offense.

SECTION 12—INJUNCTION—SEVERABILITY OF ARTICLE: Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for injunction against any person, partnership, association, corporation, or any local governmental unit, or any division, department, board or agency thereof to restrain or prevent the establishment, conduct, management or operation of any hospital, sanatorium, rest home, nursing home or other institution having five or more beds for the hospitalization or care of the sick or injured or for the care of any human being requiring or receiving chronic or convalescent care without first obtaining a license therefor in the manner hereinbefore provided.

If any part of this article shall be declared unconstitutional, such declaration shall not affect any other part thereof.



in defined, which are found to comply with the provisions of this article and with all regulations lawfully promulgated by the department.

The state department of health is hereby authorized to suspend or revoke a license issued hereunder, on any of the following grounds:

- (1) Violation of any of the provisions of this article or the rules and regulations issued pursuant thereto;
- (2) Knowingly permitting, aiding or abetting the commission of any illegal act in such institution;
- (3) Conduct or practices detrimental to the health or safety of the patients and employees of such institution.

Before any such license is suspended or revoked, however, written notice shall be given the licensee, stating the grounds of the complaint, and of the date, time, and place set for the hearing of the complaint, which date shall not be less than thirty days from the time the notice is given. Such notice shall be sent by registered mail to the licensee at the address where the institution concerned is located. The licensee shall be entitled to be represented by legal counsel at the hearing.

If a license is revoked as herein provided, a new application for a license shall be considered by the state department of health if, when, and after the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished. A new license shall then be granted after proper inspection has been made and all provisions of this article and rules and regulations promulgated hereunder have been satisfied.

SECTION 7—JUDICIAL REVIEW: Any applicant or licensee who is dissatisfied with the decision of the state department of health as a result of the hearing provided in section six may, within thirty days after receiving notice of the decision, appeal to the circuit court, in term or in vacation, of the county in which the applicant or licensee is located for judicial review of the decision. The court may, if it so desires, refer the matter to a commissioner in chancery for a hearing, with a request that he report to the court his findings of fact together with his recommendation.

The department shall promptly certify and file in the court the transcript of the hearings on which its decision is based.

Findings of fact by the department shall be considered as prima facie correct, but the court may remand the case to the department for the taking of further evidence. The department may thereupon make new or modified findings of fact which shall likewise be considered as prima facie correct. All evidence of the case shall be held secret until the final order is issued by the court which order shall be made public.

The Court shall have the power to affirm, modify or reverse the decision of the department and either the applicant or licensee or the department may appeal from the court's decision to the supreme court of appeals. Pending the final disposition of the matter the status quo of the applicant or licensee shall be preserved.

SECTION 8—STATE DEPARTMENT OF HEALTH TO ESTABLISH STANDARDS: The state department of health shall have the power, with the advice and counsel of the advisory board, to establish and enforce such minimum standards and such rules and regulations, not in conflict with any provision of this article, as it finds necessary, or in the public interest, in order to protect patients in institutions required to be licensed under this article from detrimental practices and conditions, or to insure adequate provision for their accommodations and care. In like manner, the department, with the advice and counsel of the advisory board, may from time to time rescind or modify such standards, rules and regulations in such manner as may be deemed in the public interest, but no rule, regulation, or standard of the board shall be adopted or enforced which would have the effect of denying a license to a hospital or other institution required to be licensed hereunder, solely by reason of the school or system of practice employed or permitted to be employed by physicians therein: Provided, That such school or system of practice is recognized by the laws of this state.

SECTION 9—APPOINTMENT AND TERM OF OFFICE OF ADVISORY BOARD MEMBERS: There shall be an advisory board of seven members, all of whom shall be citizens of West

