

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED

JUL 1 4 24 PM '94

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

RULE TYPE: Legislative; CITE AUTHORITY §16-5C-5, §16-5E-2

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 65

TITLE OF RULE BEING AMENDED: Residential Board and Care Homes

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

The comment period closes August 1, 1994.

DATE OF PUBLIC HEARING: \* July 27, 1994 TIME: 1:30 p.m.\*

LOCATION OF PUBLIC HEARING: Days Inn Conference Center

Flatwoods, W. Va.

\*The public hearing precedes the close of the comment period. Time is 1:30 p.m. or following the completion of the public hearing on the proposed Personal Care Homes Licensure Rule.

COMMENTS LIMITED TO: ORAL, WRITTEN, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

Regulatory Development
Department of Health
and Human Resources
Building 3, Room 265
Capitol Complex
Charleston, WV 25305
ATTN: Kay Howard

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

William T. Wallace, Jr. M.D., M.P.H.
Commissioner, Bureau of Public Health

15.30



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Gaston Caperton  
Governor

June 27, 1994

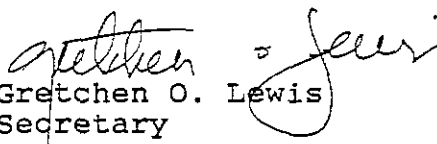
Gretchen O. Lewis  
Secretary

Honorable Ken Hechler  
Secretary of State  
Capitol Building  
Charleston, West Virginia 25305

Dear Secretary Hechler:

I hereby approve rules to be filed for public comment relative to the following subjects: aids-related medical testing and confidentiality, asbestos licensure, behavioral health facility patient rights, legally unlicensed health care facilities, personal care home licensure, radon licensure, residential board and care home licensure, and wastewater treatment works operator certification.

Sincerely,

  
Gretchen O. Lewis  
Secretary

GOL:kjs

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Residential Board and Care Homes, 64 CSR 65

Type of Rule: X Legislative        Interpretive        Procedural

Agency Department of Health and Human Resources

Address Building 3, Capitol Complex

Charleston, W. Va. 25305

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 323,118	\$ 313,549	\$ 313,549
Personal Services			174,564	183,292	183,292
Current Expense			124,054	130,257	130,257
Repairs and Alterations			0	0	0
Equipment			24,500	0	0
Other			0	0	0
Revenue			\$ 104,516	\$ 9,705	\$ 9,705

2. Explanation of above estimates.

\* See attachment for details.

3. Objectives of these rules:

This proposed legislative rule redefines the general standards and procedures for regulating residential board and care homes which are places which provide accommodations and personal assistance to four to ten adults who are dependent upon the services of others by reason of physical or mental impairment but who are capable of self-preservation in emergency situations involving imminent danger or who may require limited and intermittent nursing but are capable of self-preservation and are not bedfast. The proposed rule provides for the health, safety and welfare of resident of such residential board and care homes.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

According to State Code, residential board and care homes bear the direct cost of initial inspections; thus the first-year costs to state government are reduced, to some extent, by the estimated revenues. Each year thereafter, all cost for inspection will be borne by the State. The additional cost of administering this rule will require an increase in general revenue funding for the Department of Health and Human Resources.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

The residential board and care homes will bear all identifiable **direct costs** of inspection upon initial licensure inspection. The average cost of a first inspection is estimated at \$838; however, initial inspection costs for some facilities may be less than the \$838, while costs to inspect other facilities may very well exceed the estimated \$838. Additionally, any cost to comply with the regulations will also be borne by the residential board and care homes.

C. Economic Impact on Citizens/Public at Large.

Possible impact - increased costs in providing residential board and care.

Date July 1, 1994

Signature of Agency Head or Authorized Representative

William T. Wallace, Jr.

William T. Wallace, Jr., M.D.  
Commissioner, Bureau of Public Health  
Department of Health and Human Resources

PROPOSED RULE FISCAL NOTE ATTACHMENT  
Residential Board and Care Homes, 64 CSR 65

The present fiscal note assumes a full year of operation during Fiscal Year 1995, although the Department of Health and Human Resources will need a supplemental budget package to cover the costs resulting from implementation of this rule since no funds have been allocated by the legislature for this new program. Other assumptions are detailed below.

Number of Homes

Precise information regarding the number of residential board and care homes is not available. The Department is currently aware of approximately 116 potential residential board and care homes which have submitted an application for licensure.

Historically, the Department discovers approximately eighty (80) unlicensed locations providing varying levels of 24-hour residential care per year. Of these 80 locations, the Department estimates that: approximately 20 will be licensable as residential board and care homes; 20 or more will reduce their census voluntarily; and the remainder will require some type of administrative action.

The Department believes that after an initial period of adjustment the number of new residential board and care homes licensed per year will level off and that there will be approximately 200 such licensed facilities. Also, the number of unlicensed facilities discovered should decrease. Although there will not be a full complement of 200 licensed facilities in the first and second years, the extra work required for the initially large number of known un-licensable facilities and other start-up activities will require full staffing from the program's inception.

Estimated Time Required for Inspections and Administration

The following assumptions were made concerning staff time requirements per facility:

1. Time required per facility for inspection and administrative costs for homes meeting the licensure requirements: 27 hours.
2. Time required per facility for inspection and administrative costs for homes voluntarily choosing to reduce their census: 32 hours (an additional 5 hours for administrative process).
3. Time required per facility for inspection, administrative review and legal costs for non-complying, non-cooperative facilities: 52 hours (an additional 20 hours for legal action).

Cost Estimates

1. Fiscal Year 1995

PERSONAL SERVICES:

0.50 FTEs	Program Administrator	\$ 16,500
1.00 FTEs	Attorney	31,000
1.00 FTEs	Para-Legal	23,000
1.00 FTEs	Clerical Staff	15,900
2.00 FTEs	Nurse III/IV @ \$33,082	66,164
1.00 FTEs	Social Worker	22,000
		=====
6.50 FTEs	TOTAL PERSONAL SERVICES	\$ 174,564

CURRENT EXPENSE:

Fringe Benefits (Personal Services @ 22.1%)	\$ 56,779
PLUS: (Insurance @ 4 x \$4,550)	
Travel Expense (4 Surveyors @ \$8,200)	32,800
Vehicle Expense (2 Leased Vehicles)	12,480
Other Current Expense	21,995
(Includes Rent & Telephone Costs)	=====
TOTAL CURRENT EXPENSE	\$ 124,054

EQUIPMENT:

Office Furniture for 4 Charleston Based Staff	\$ 3,500
Computer Equipment:	21,000
4 Laptop Computers	=====
2 Desktop PCs for Office Staff	
TOTAL EQUIPMENT	\$ 24,500
TOTAL ESTIMATED COST	\$ 323,118
	=====

2. The estimated cost for Fiscal Year 1996 and each year thereafter is reduced by the equipment costs; however, FY-96 and thereafter reflect a 5% increase over Fiscal Year 1995 for both Personal Services and Current Expense.

Revenue Estimates

Fiscal Year 1995

Revenues for Fiscal Year 1995 are based upon an estimated 116 residential board and care home inspections and each of those facilities paying an average initial inspection cost of \$838.00. Additionally, revenues would be generated by an initial licensure fee of \$63.00 per facility application.

Initial Inspection Costs <sup>1</sup>	\$838.00	x	116 Homes	\$	97,208
Licensure Application Fees	\$ 63.00	x	116 Homes		7,308
					=====
TOTAL ESTIMATED REVENUE				\$	104,516

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Revenues for subsequent fiscal years are based upon a leveling off of new residential board and care homes with 200 facilities applying for re-licensure and an additional five (5) new facilities applying for licensure each year thereafter.

TOTAL ESTIMATED REVENUE for FISCAL YEARS 1996 & THEREAFTER

Initial Inspection Costs	\$838.00	x	5 Homes	\$	4,190
Licensure Application Fees	\$ 63.00	x	5 Homes		315
Renewal Licensure Fees <sup>2</sup>	\$5.25	x	5 Beds x 200 Homes		5,200
					=====
TOTAL ESTIMATED REVENUE				\$	9,705

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<sup>1</sup> W. Va. Code §16-5C-6 states that all direct costs of an initial residential board and care home licensure inspection are to be borne by the applicant. Initial licensure costs may vary depending upon travel (mileage, lodging, and meal allowances) and personal service costs (costs based on the number of hours required to perform the initial inspection and report generation).

<sup>2</sup> Estimated average bed census per home.

## RULE ABSTRACT

Agency: Department of Health and Human Resources

Rule Title: Residential Board and Care Homes

CSR Title and Series: 64 CSR 65

Type: Legislative

Summary: This legislative rule prescribes specific standards and procedures to provide for the health, safety, and protection of the rights and dignity of residents of residential board and care homes. The Department of Health and Human Resources proposes to amend the present rule, which became effective in October, 1993, to correspond with changes in the licensure law enacted by the 1994 Legislature in S.B. 308; to respond to a Court Order; and to make needed changes to further ensure the protection of the residents of such facilities based on actual field observation of needs and problems. The proposed amendments add requirements in the following new topic areas: the licensee, other uses of the home, resident work, volunteers, personnel records, standard personal care services, functional assessments, comprehensive service plans and additional requirements related to the provision of limited and intermittent nursing or maximum personal assistance services. A number of other sections are extensively revised.

For further information contact: The Office of Health Facility Licensure and Certification, 1-304-558-0050, or Regulatory Development Section, telephone 1-304-558-3223.

7/6/94

[PROPOSED]  
TITLE 64

WEST VIRGINIA ADMINISTRATIVE RULES  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

RESIDENTIAL BOARD AND CARE HOMES

Series 65

199\_

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Public Hearing July 27, 1994  
Public Comment Period Ends August 1, 1994

WEST VIRGINIA ADMINISTRATIVE RULES  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
RESIDENTIAL BOARD AND CARE HOMES  
64 CSR 65

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PROPOSED - TITLE 64  
WEST VIRGINIA ADMINISTRATIVE RULES  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
PRELIMINARY DRAFT: 7/1/94

SERIES 65  
RESIDENTIAL BOARD AND CARE HOME LICENSURE

§64-65-1. General.

1.1. Scope - This legislative rule prescribes specific standards and procedures to provide for the health, safety, and protection of the rights and dignity of residents of residential board and care homes. This rule must be read in conjunction with W. Va. Code §§16-5C-1 et seq. and 16-5H-1 et seq. to determine the complete requirements for licensing, regulation regulating, and complaint-investigations-of investigating complaints concern-ing residential board and care homes.

1.2. Authority - W. Va. Code §§16-5C-5 and 16-5H-2.

1.3. Filing Date -

1.4. Effective Date -

1.5. Repeal of Former Rule - This legislative rule amends and reenacts West Virginia Administrative Rules, WV 64 CSR 65, Residential Board and Care Homes, 1993.

§64-65-2. Application and Enforcement.

2.1. Application - This rule applies to any individual person, and every form of organization, whether incorporated or unincorporated, including any partnership, corporation, trust, association or political subdivision of this State establishing, maintaining or operating a residential board and care home as defined in W. Va. Code §§16-5C-2 and 16-5H-1 and this rule. ~~except that participation by a home in the adult family care home program of the department of health and human resources shall be accepted as a residential board and care home license.~~

2.2. Enforcement - This rule is enforced by the secretary of the West Virginia department of health and human resources.

§64-65-3. Definitions.

3.1. Abuse - Mistreatment ~~or neglect~~ of residents, including physical bodily harm, misuse of physical or chemical restraints, verbal abuse, infliction of emotional suffering, disregard for necessities of daily living, lack of care for medical problems, and illegal or improper use of a resident's personal property.

3.2. Activities of Daily Living - The activities that individuals generally perform regularly in the course of maintaining their existence physical selves, such as eating, dressing, walking, oral hygiene, toileting, personal grooming, getting-in-and-out-of-bed, and other similar activities or doing laundry, managing money, cleaning their rooms, shopping, using public transportation, writing letters, making telephone calls, participating in recreational and leisure activities, and other similar activities transfer and mobility.

3.3. Administration of Medication - Opening a container of medication, removing a prescribed dosage and giving the medication to the person for whom it is prescribed, including giving injections and administering eyedrops.

3.4. Administrator - The owner or individual selected by the licensee to be responsible for the day-to-day operation of the residential board and care home.

3.5. Ambulatory - The condition of an individual who is able to move independently from one (1) location to another.

3.6. Bed Capacity - The number of residents for which a home is licensed to provide care.

3.7. Bedfast - The condition of individuals who are confined or restricted to a bed or chair for a prolonged or indefinite period of time with limited mobility and ability to turn themselves while in bed or remove themselves from a chair, making them susceptible to physiological, physical and psychological complications of immobilization and incapable of self-preservation. An individual for whom a physician has prescribed bed rest because of a short term illness (i.g. cold, flu, virus, etc.) is not considered bedfast.

3.8. Behavioral Health Services - Those services intended to help individuals with emotional or mental disorders, alcohol or drug abuse problems, or mental retardation or other developmental disabilities to gain or regain the capacity to function adaptively in their environment, to care for themselves and their families, and to be accepted by society.

3.9. Boarding Home - An establishment which is held forth to the public as providing, or which is operated to provide, only room and board to persons not in need of medical or nursing services, personal supervision or assistance in performing the activities of daily living.

~~3.10. Capacity - The number of residents for which a residential board and care home has been licensed to provide care.~~

3.10. Chemical Restraint - a psychoactive drug that is used for discipline or convenience and is not required to treat medi-

cal symptoms.

3.11. Communicable Disease - An illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a susceptible host from an infected person, animal, or arthropod, or through the agency of an intermediate host or a vector or through the inanimate environment.

3.12. Comprehensive Service Plan - A written description of actions to be implemented by the licensee to meet all of the needs identified in the resident's functional needs assessment.

3.13. Dispensing Medication - Preparing and packaging a prescription drug or device in a container and labeling the container with information required by State and federal law; filling or refilling drug containers with medication for subsequent use by a resident; or providing quantities of unit dose prescription drugs for subsequent administration.

3.14. Extensive Nursing Care - The nursing care required when there is a major deviation from normal in a body system or multiple body systems of such magnitude that the deviations are life threatening and the individual's condition is unstable and unpredictable.

3.15. Immediate and Serious Threat - A situation which may present a high probability of serious harm or injury to one or more residents. An immediate or serious threat need not result in actual harm to any resident. The threat of probable harm is perceived as being as serious or significant.

3.16. Imminent Danger - As applied to a violation of this rule, a danger which could reasonably be expected to immediately cause or contribute to death, serious physical harm or illness to residents, household members or staff before the threat can be eliminated through the Plan of correction process of this rule.

3.17. Instrumental Activities of Daily Living - Those activities individuals generally perform regularly in the course of meeting their needs such as: preparing meals, doing laundry, managing money, cleaning their rooms or homes, shopping, using public transportation, writing letters, making telephone calls, participating in recreational and leisure activities, and other similar activities.

3-6 3.18. Legal Representative -

3-20:1--A-committee-appointed-pursuant-to-W.-Va.-Code-§§27-11-1-et-seq.;

3-20:2--A-guardian-appointed-pursuant-to-W.-Va.-Code-§§44-10A-1-et-seq.;

~~3-20-3--A person, power of attorney, or any other entity lawfully appointed or designated to act on behalf of a resident.~~

3.18.1. A conservator appointed pursuant to W. Va. Code §§44A-1-4 et seq. within the limits set by the order;

3.18.2. A guardian appointed pursuant to W. Va. Code §§44A-1-4 et seq. within the limits set by the order;

3.18.3. A limited conservator appointed pursuant to W. Va. Code §§44A-1-4 et seq. within the limits set by the order;

3.18.4. A limited guardian appointed pursuant to W. Va. Code §§44A-1-4 et seq. within the limits set by the order;

3.18.5. A medical power of attorney appointed pursuant to W. Va. Code §§44A-1-4 et seq. within the limits set by the order; or

3.18.6. A surrogate decision-maker appointed pursuant to W. Va. Code §§44A-1-4 et seq. within the limits set by the order.

3.19. Licensed Health Care Professional - Any health care professional currently licensed in the State of West Virginia such as a social worker, dentist, practical nurse, occupational therapist, pharmacist, physical therapist, physician, physician assistant, psychologist, registered professional nurse, or speech-language pathologist.

Note: Responsibilities of physicians contained within this rule may be implemented by nurse practitioners or physicians assistants as assigned by the supervising physician and within the parameters of professional licensing.

3-7 3.20. Life Care Contract - A contract between the residential board and care home and an individual in which the residential board and care home agrees to provide long-term residential care for the individual, for the remainder of the individual's life, regardless of the level of care needed by the individual.

3.21. Limited and Intermittent Nursing Care - Care provided to individuals with stable medical conditions affecting one (1) or more body systems, who do not need direct, hands-on nursing care in excess of one (1) hour per day, or who have a medical condition requiring direct, hands-on nursing care in excess of one (1) hour per day which is not projected to persist for a period of greater than sixty (60) consecutive days. Individuals who have medical conditions which need direct, hands-on nursing care in excess of one (1) hour per day, or who have a medical condition requiring direct, hands-on nursing care in excess of one (1) hour per day or which has persisted for a period of greater than sixty (60) consecutive days shall be transferred to

a health care facility with the capability of providing the needed level of nursing care. Residents receiving hospice care may receive such care for ninety (90) consecutive days.

3.22. Major Incident - An incident of the nature of the following examples: death of a resident from other than natural causes; having residents missing who are likely to injure themselves or who need medication or treatment on a regular basis for their well-being and are likely to have difficulty returning to the residential board and care home; assaults on a resident resulting in injury; or events which cause the disruption of the home's normal activity such as threats or occurrences of extreme violence, explosions, fire or natural disasters.

3.23. Mobility - The ability to move from place to place, which includes the following categories:

3.23.1. Mobile with or without assistive device; requires no assistance with transfer;

3.23.2. Mobile with or without assistive device; requires assistance with transfer;

3.23.3. Mobile with occasional personal assistance; walks with unsteady gait;

3.23.4. Mobile with continuous personal assistance;

3.23.5. Mobile with a chair or device and personal assistance; including transfer.

3.24. Neglect - Disregard for the necessities of daily living or the lack of care for significant medical problems.

3-8 3.25. Nursing Care (Services) - Those procedures commonly employed in providing for the physical, emotional and rehabilitation needs of the ill or otherwise incapacitated which require technical skills and knowledge beyond that which the untrained person possesses, including, but not limited to, such procedures as: irrigations, decubitus care, catheterizations, special procedures contributing to rehabilitation and administration of medication by any method which involves a level of complexity and skill in administration not possessed by the untrained person.

3.26. Nursing Support Staff - Registered professional and practical nurses employed by the residential board and care home to provide direct hands-on nursing services to residents. Nursing support staff shall be licensed as required by State law and shall work under the direction of a registered professional nurse.

3.27. On-going Nursing Care - The nursing care required

when a deviation in health is expected to continue over a lengthy period of time with no minimal improvement in the unstable or unpredictable condition.

3-9 3.28. Personal Assistance - Personal services, including, but not limited to the following: help in walking, bathing, dressing, feeding, or getting in or out of bed, or supervision required because of the age or mental impairment of the resident.

3-10 3.29. Physical Restraint - A device which physically limits, restricts, or deprives an individual of movement or mobility.

3-11 3.30. Resident - An individual living in a residential board and care home for the purpose of receiving residential board and care services from the home.

3-12 3.31. Residential Board and Care Home - Any residence or any part or unit thereof, however named, in this State which is advertised, offered, maintained, or operated by the owners or management, whether for consideration or not, for the express or implied purpose of providing accommodations, personal assistance and supervision, for a period of more than twenty-four (24) hours, to ~~three-(3)-to-eight-(8)~~ four (4) to ten (10) persons who are not related to the owner or manager by blood or marriage, within the degree of consanguinity of second cousin, and who are dependent upon the services of others by reason of physical or mental impairment ~~but who do not require nursing services and who are capable of self-preservation~~ or who may require limited and intermittent nursing care but are capable of self-preservation and are not bedfast, including those individuals who qualify for and are receiving services coordinated by a licensed hospice.

3.32. Residential Care Staff - Those employees of a residential board and care home whose responsibilities include the provision of direct care services to residents. Their duties may include transporting of residents, the provision of personal assistance with activities of daily living and the assistance needed to carry out instrumental activities of daily living.

3.33. Residential Support Staff - Those employees of a residential board and care home whose responsibilities include the provision of services to residents. Their duties may include providing housekeeping, laundry, maintenance, and food service assistance.

3.34. Sanitizing Agent - An agent which will reduce the bacterial count, including pathogens to a safe level.

3-13 3.35. Secretary - The secretary of the State department of health and human resources or his or her lawful designee.

3-14 3.36. Self-preservation - The capability of, at least,

removing one's physical self from situations involving imminent danger, such as fire.

3-15 3.37. Supervision - The assumption of varying degrees of responsibility for the safety and well-being of residents including, but not limited to: being aware of the resident's whereabouts, although he or she may travel independently in the community; monitoring through observation the activities of the resident while on or-off the premises of the residential-board and-care home to ensure his or her health, safety and well-being; reminding the resident of any important activities of daily living and prescribed medication; purchasing of food and other supplies, and meeting nutritional needs; arranging for or providing transportation as necessary; and other similar activities.

3-16 3.38. Supervision of Self-Administered Medications - A personal service which includes reminding the residents to take medication, opening bottle caps for residents, reading the medication label to residents, observing residents while they take medication, checking the self-administered dosage against the label of the container, and reassuring residents that they have obtained and are taking the dosage as prescribed.

#### §64-65-4. State Administrative Procedures.

##### 4.1. General Licensing Provisions.

4.1.1. No person may establish, maintain, offer, operate or advertise a residential board and care home without first obtaining from the secretary a license authorizing the operation: Provided, however, That any person who filed an application for a residential board and care home license with the secretary prior to the effective date of this rule may continue to operate the residential board and care home without a license until the secretary grants or denies the license.

4.1.2. A separate license is required for residential board and care homes maintained or operated on separate premises even though maintained or operated by the same licensee. Separate buildings on the same premise operated as residential board and care homes require separate licenses, unless the secretary determines otherwise.

4.1.3. A license is valid only for the licensee and for the structure named in the application, is not transferable or assignable, and shall be surrendered to the secretary upon written demand, or immediately, when the residential board and care home ceases provision of services.

4.1.4. If there is to be a change of licensee of a residential board and care home, the person proposing to be the new licensee shall immediately submit an application for a license, and the application has the effect of a valid license for ninety

(90) days from the date the application is received by the secretary or until a site visit is conducted and a decision regarding licensure status is issued.

4.1.5. The residential board and care home shall notify the secretary of any change in the name of the home.

4.1.6. If a person owns more than one (1) residential board and care home, each home shall have a separate identification.

4.1.7. The words "clinic", "hospital", "nursing home", "personal care home" or any other words which suggest a type of facility other than a residential board and care home shall not be used in the name of the home or in any of the home's advertising.

4.1.8. If any residents of a residential board and care home are to be moved to an unlicensed location, the licensee shall apply for a license for the new location at least ninety (90) days in advance of the move.

#### 4.2. Licensure Application Procedure.

4.2.1. Applications for licensure as a residential board and care home shall be submitted to the West Virginia office of health facility licensure and certification of the department of health and human resources.

4.2.2. The applicant shall submit the application on forms provided by the secretary and the application shall be accompanied by a license fee in the form of a check or money order payable to the West Virginia office of health facility licensure and certification.

4.2.3. The secretary will not review incomplete forms and will return them to the applicant.

4.2.4. The application fee is non-refundable and the amount is established in accordance with W. Va. Code §16-5C-6.

4.2.5. The applicant shall submit the application and fee at least ninety (90) days prior to the date proposed for commencement of operations.

4.2.6. The application and accompanying forms shall be complete and shall bear the notarized signature of the applicant.

#### 4.3. Application for License.

4.3.1. The signature on the application and accompanying forms serves as a release for obtaining references, and credit and other background information.

4.3.2. The secretary may deny a license if an applicant is found to be irresponsible or unsuitable to operate, direct, or participate in the operation of a residential board and care home as evidenced by the following reasons:

4.3.2.a. Lack of financial stability to operate, such as insufficient capital, delinquent accounts, checks returned because of insufficient funds, and nonpayment of taxes, utility expenses and other essential services;

4.3.2.b. If an applicant, and, if applicable, operator an administrator, is found to have been arrested for, adjudicated, or convicted of any felony or of a misdemeanor relevant for the provision of care in a health care facility or for operating a health care facility, in which case the secretary shall, on a case by case basis, assess the seriousness of the offense, as well as the type and frequency of the offense;

4.3.2.c. When the secretary determines, based on the applicant's or operator's administrator's history, that there is reason to believe that abuse, incompetent care, or exploitation of residents may occur;

4.3.2.d. The applicant has been denied or has had revoked a license to operate a health care facility in West Virginia or any other jurisdiction during the previous five (5) years;

4.3.2.e. There has been a record of noncompliance with lawful orders of the department or other licensing or certification agency for any jurisdiction in which the applicant has operated, directed or participated in the operation of a health care facility.

4.3.3. The secretary, after inspection, shall issue an initial license if the applicant complies with this rule and the requirements of W. Va. Code §§16-5C-1 et seq. and 16-5H-1 et seq.

#### 4.4. License Renewal.

4.4.1. Applications for renewal of a license shall be post-marked or hand delivered to the secretary a minimum of ninety (90) days prior to the expiration date appearing on the currently held license.

4.4.2. The secretary shall issue a renewal license when the following conditions are met:

4.4.2.a. The home is found to be in compliance with the provisions of W. Va. Code §§16-5C-1 et seq. and 16-5H-1 et seq. and this rule;

4.4.2.b. The applicant has submitted a complete application and all requested documentation regarding financial capability

and management of the home; and

4.4.2.c. The home has met all Class I standards and has attained at least a "C" rating according to this rule.

4.5. Provisional License.

4.5.1. The secretary may issue a provisional license when:

4.5.1.a. The home has received an "F" rating; or

4.5.1.b. All requirements for renewal of a license are not met prior to the expiration of the previously issued license.

4.5.2. The secretary shall not issue a provisional license when the home:

4.5.2.a. Is in violation of any Class I standards;

4.5.2.b. Is assigned a rating of "F" in three (3) or more licensure categories;

4.5.2.c. Has a record of noncompliance with this rule; or

4.5.2.d. Does not demonstrate potential for at least an overall "C" rating within the expiration date of the currently issued license.

4.5.3. The secretary shall not renew a provisional license.

4.5.4. The secretary shall determine the period of time for which a provisional license is issued. However, in no instance shall this period exceed one (1) year.

4.5.5. If the owner of a home is denied a provisional license or a provisional license expires, the secretary shall treat a subsequent application for a license as an initial license and the owner shall meet the requirements for an initial license including the cost of an initial application fee and inspections as determined by the secretary.

4.6. Inspections.

4.6.1. The secretary shall make or cause to be made inspections by duly authorized representatives as necessary to carry out the intent of this rule and W. Va. Code §§16-5C-1 et seq. and 16-5H-1 et seq.

4.6.2. The secretary has the right to enter upon the premises of a residential board and care home without prior notice to conduct inspections. If the owner or person in charge of such a home refuses entry, the secretary may apply to the circuit court in which the home is located or the circuit court of Kan-

wha County for a warrant authorizing an inspection.

4.6.3. The secretary has the right to enter upon the premises of any building for which probable cause exists that it is being operated or maintained as a residential board and care home without a license. If the owner or person in charge of the home refuses entry, the secretary may apply to the circuit court in which the building is located or the circuit court of Kanawha County for a warrant authorizing an inspection.

4.6.4. The secretary's authorized representative shall conduct at least one (1) unannounced inspection of a residential board and care home in order to assign a rating for all categories of standards prior to issuance of an initial license. Inspections shall be conducted after:

4.6.4.a. The application and fee have been received and been determined to be complete;

4.6.4.b. All requested documentation verifies the readiness of the home for an inspection;

4.6.4.c. Fees for the cost of inspections have been received by the secretary; and

4.6.4.d. Necessary inspections can be scheduled.

4.6.5. Periodic unannounced inspections shall be conducted to determine the residential board and care home's continued compliance with applicable statutes and regulations. An inspection may be limited to determination of compliance of Class I standards for a home when this home has demonstrated no previous assigned rating lower than "B" and which has had no substantiated allegations concerning lack of safety, quality of care or infractions of resident rights registered against it.

4.6.6. The secretary shall prepare a written report of any inspection made pursuant to this rule and shall mail a copy to the licensee or operator administrator, as applicable, specifically listing any violation of this rule.

#### 4.7. Complaint Investigation.

4.7.1. Any person may register a complaint with the secretary alleging a violation or violations of this rule or of W. Va. Code §§16-5C-1 et seq. or 16-5H-1 et seq. by a residential board and care home or a facility alleged to be operating unlawfully as a residential board and care home. The complainant shall state the substance of the complaint and identify the home or building by name or address.

4.7.2. The secretary has the authority to conduct investigations as necessary to determine the validity of the complaint

and shall notify the residential board and care home or a facility alleged to be operating unlawfully as a residential board and care home of the substance of the complaint at the time of the completion of any investigation.

4.7.3. The secretary shall send a description of any corrective action that a home will be required to take within a specified time frame and any disciplinary action to be taken by the secretary to the complainant, to the licensee, and to the administrator.

4.7.4. The names of a complainant and of any resident named in the complaint shall be kept confidential and shall not be disclosed to the public without written permission of the complainant and the resident or the resident's legal representative.

4.7.5. Any type of discriminatory treatment of a resident by whom, or upon whose behalf, a complaint has been submitted to the secretary, within one hundred twenty (120) days of the filing of the complaint or the institution of such action, shall raise a rebuttable presumption that such action was taken by the residential board and care home in retaliation for such complaint or action.

~~4.7.5.~~ 4.7.6. Instances of actual or suspected neglect or abuse or other situations which are required to be reported under W. Va. Code §9-6-9 which are discovered or observed as a result of any complaint investigation, any inspection, or investigation of a licensed or unlicensed residential board and care home shall be reported as required by law.

4.7.7. If, after an investigation, the secretary determines that the complaint has merit, he or she shall advise any injured party of the possibility of a civil remedy under W. Va. Code §16-5C-8.

4.7.8. If, within one hundred twenty (120) days of an inspection or complaint investigation, a residential board and care home fails to comply with the requirements of this rule, the secretary shall, in writing, inform all residents of the home of the violations which the home has made, and of the time period during which residents may relocate if they wish prior to the home being reported to the United States Social Security Administration.

4.7.8.a. The secretary shall provide all residents with a list of approved facilities and agencies which will assist them if they wish to move. The purpose of the notification is to let the residents know they do not have the protection of the regulations, and to give them assistance to move if the lack of compliance by the residential board and care home endangers them or causes a reduction in their Social Security benefits.

4.7.9. Within two hundred ten (210) days of an inspection or complaint investigation after which deficiencies are not timely corrected, the secretary shall cause the name and address of the deficient residential board and care home to be transmitted to the appropriate regional office of the United States Social Security Administration as a deficient residential board and care home.

4.8. Plans of Correction.

4.8.1. The licensee of a home found on the basis of inspection or other investigation to have violations of requirements in this rule shall develop a plan of correction which shall be signed and dated by the licensee and submitted to the secretary within fifteen (15) working days of receipt of the report of the inspection or other investigation.

4.8.2. The secretary may require immediate correction in the case of a violation constituting immediate and serious threats to the health or safety of a resident or employee.

4.8.3. The plan of correction shall specify:

4.8.3.a. The violations to be corrected;

4.8.3.b. Action taken or proposed to correct the violations and procedures to prevent their recurrence; and

4.8.3.c. A calendar date by which the violations will be corrected, which date shall allow the shortest possible time in which the residential board and care home may reasonably be expected to correct the violation. A home shall ordinarily be expected to comply with the rule within sixty (60) days of the inspection; however, the secretary may allow more time for certain types of deficiencies.

4.8.4. The plan of correction shall be approved, modified or rejected in whole or in part by the secretary in writing.

4.8.5. In modifying or rejecting a proposed plan of correction, the secretary shall state the reasons for the modification or rejection.

4.8.6. When the secretary rejects a plan of correction, the residential board and care home has a reasonable amount of time, but no more than fifteen (15) working days, to submit a revised plan.

4.8.7. The secretary may conduct reasonable and necessary procedures, including a follow-up on-site inspection, to verify the correction of any violations identified during an inspection or any other investigation.

4.9. Release of Reports and Records.

4.9.1. The secretary, from the time of receipt, shall make available for public inspection information concerning applications, inspections, investigations ~~and other reports~~ and the current list of facilities (name and address) found in violation of this rule, including the details of each violation. Copies shall be provided at a reasonable cost upon request.

4.9.2. The names of residents shall be kept confidential and shall not be disclosed without the written permission of the resident or his or her legal representative. Nothing contained in this rule shall be construed to require or permit the public disclosure of confidential medical, social, personal or financial records of any resident. Before releasing a report or record judged public information, the secretary shall delete any confidential information regarding a resident which would reasonably permit identification of the resident.

4.10. Classification of Standards.

In accordance with W. Va. Code §16-5C-5(c), a classification for each standard in this rule is established according to the following:

4.10.1. Class I standards are those the violation of which would present either an imminent danger to the health, safety or welfare of any resident or substantial probability that death or serious physical harm would result;

4.10.2. Class II standards are those the violation of which would have a direct or immediate relationship to the health, safety or welfare of any resident but which would not create imminent danger; and

4.10.3. Class III standards are those the violation of which would have an indirect or potential impact on the health, safety or welfare of any resident.

4.11. Point System.

4.11.1. The secretary shall assign a Class I standard a value of ten (10) points if the home fully complies with the standard. If the home fails to comply fully with the Class I standard and the secretary determines that the lack of compliance presents either an imminent danger to any resident or a substantial probability that death or serious harm to any resident may result, the score assigned to the Class I standard shall be zero (0). If the home fails to comply fully with the standard but does demonstrate substantial compliance a score of seven (7) points may be assigned to the standard. If the home fails to demonstrate full or substantial compliance with the standard but partial compliance is in evidence, a score of five (5) points may

be assigned to the standard. If the home fails to demonstrate partial compliance or if the violation is a repeat of a deficiency cited during the previous licensure inspection, a partial score shall not be assigned and the standard shall be scored as zero (0).

4.11.2. The secretary shall assign a Class II standard a value of nine (9) points if the home fully complies with the standard. If the home fails to comply fully with the Class II standard and the secretary determines that the lack of compliance may result in substantial probability that serious harm to the health, safety, or welfare of any resident may result, the score assigned to the Class II standard shall be zero (0). If the home fails to comply fully with the standard but does demonstrate substantial compliance a score of six (6) points may be assigned to the standard. If the home fails to demonstrate full or substantial compliance with the standard but partial compliance is in evidence a score of four (4) points may be assigned to the standard. If the home fails to demonstrate partial compliance or if the violation is a repeat of a deficiency cited during the previous licensure inspection, a partial score shall not be assigned and the standard shall be scored as a zero (0).

4.11.3. The secretary shall assign a Class III standard a value of eight (8) points if the home fully complies with the standard. If the home fails to comply fully with the standard but does demonstrate substantial compliance a score of five (5) points may be assigned to the standard. If the home fails to demonstrate full or substantial compliance with the standard but partial compliance is in evidence, a score of four (4) points may be assigned to the standard. If the home fails to demonstrate partial compliance or if the violation is a repeat of a deficiency cited during the previous licensure inspection, a partial score shall not be assigned and the standard shall be scored as a zero (0).

4.11.4. The secretary shall determine substantial, partial, or lack of compliance with a standard based on the severity or scope, or both, of the noncompliance rather than the quantity of components out of compliance under a specific standard.

4.11.5. If a standard is not applicable for a particular residential board and care home, a full compliance value shall be assigned for that item for scoring and rating purposes.

#### 4.12. Residential Board and Care Home Rating.

4.12.1. The secretary shall assign a rating to each residential board and care home based on the result of the licensure inspection.

4.12.2. The rating shall be assigned and included on the license issued to the residential board and care home based on

the results of the licensure inspection.

4.12.3. Scores and ratings for individual categories are shown in Table 64-65.1 found at the end of this rule.

4.12.4. The secretary shall not permit points scored in any individual category to offset deficiencies within another category. Therefore, the secretary will not compute a total of value points. An overall rating for the residential board and care home cannot be determined solely on the basis of total points earned.

4.12.5. For purposes of assigning an overall rating, a category rating of "A" shall be assigned a score of four (4); a category of "B" shall be assigned a score of three (3); a category rating of "C" shall be assigned a score two (2); and a category rating of "F" shall be assigned a score of zero. Category rating scores shall be totaled and an average category rating score shall be computed. An overall residential board and care home rating shall be assigned based on considerations of both the average category rating score and the number of categories rated "F" as follows:

4.12.5.a. If a home is given a rating of "F" on one (1) category or has an average category rating score of less than 2.0, an overall rating of "F" shall be assigned;

4.12.5.b. For an average score of 2.0 through 2.59, an overall rating of "C" shall be assigned;

4.12.5.c. For an average score of 2.6 through 3.59, an overall rating of "B" shall be assigned; and

4.12.5.d. For an average score of 3.6 through 4.0, an overall rating of "A" shall be assigned.

4.12.6. The secretary may issue a provisional license to a home with an overall rating of "F" as described in Section 4.5 of this rule and in W. Va. Code §16-5C-6(d). However, any home demonstrating an "F" in three (3) or more licensure categories shall not be issued a license and shall be ordered to close or be subject to other actions by the secretary as described in W. Va. Code §§16-5C-11, 16-5C-15, and 16-5H-3.

4.12.7. Any residential board and care home which has been determined by the secretary to be noncompliant with any Class I standard shall not be assigned a rating and shall not be issued a provisional license as specified in Section 4.5.2 of this rule.

4.12.8. The secretary shall assign a rating of no greater than a "B" to a home which has been denied a provisional license based on violation of a Class I standard and is subsequently reapplying for an initial license as specified in Section 4.5.5

of this rule.

**§64-65-5. Administration of the Residential Board and Care Home.**

**5.1. General Administrative Requirements. (Class III)**

5.1.1. The residential board and care home shall adopt policies and procedures governing the personal care and safety of residents, the protection of residents' personal and property rights, the operation of the home, the services provided and all other policies and procedures required by this rule.

5.1.2. All policies and procedures shall be in writing and kept current with changes indicated by a dated signature of the administrator.

5.1.3. A copy of each policy and procedure shall be available for inspection on request by employees, residents, and resident's representatives.

5.1.4. The residential board and care home shall have written house rules governing resident behavior and responsibilities including: smoking; alcohol consumption; visitation; recreational activities (including television); personal laundry; the process for residents and others to make complaints and raise concerns about the home known to the administrator; and the use and storage of personal belongings such as furnishings and clothing. House rules may not be inconsistent with this rule.

5.1.5. The residential board and care home shall make copies of this rule readily available to residents without the residents having to ask for the rule.

5.1.6. The residential board and care home shall inform residents how to gain access to copies of current government inspection reports and plans of correction.

5.1.7. The residential board and care home shall comply on a timely basis with the requirements of this rule regarding the submission of plans of correction and the correction of deficiencies identified in the plans of correction.

**5.2. Administrator. (Class II)**

5.2.1. A residential board and care home shall have an administrator who is at least twenty-one (21) years of age or older and is qualified by training to be responsible for the day-to-day operation of a residential board and care home.

5.2.2. The administrator shall have completed high school or shall have a general education development (GED) certificate. ~~except that individuals who have demonstrated the ability to read and write and to follow written instructions may be approved as~~

~~residential board and care home administrators:--Provided,--That the residential board and care home shall apply for a license during the twelve (12) month period following the effective date of this rule.~~

5.2.3. The administrator of a residential board and care home shall ~~be of good moral character:--In assessing moral character, the secretary may consider~~ have a personal history which is free of: evidence of abuse, fraud, or substantial and repeated violations of applicable laws and rules in the operation of any health or social care facility or service organization, or in the care of dependent persons; ~~or conviction and convictions~~ within the previous five (5) years of a crime relevant for the provision of care to a dependent population.

5.2.4. The administrator shall on an annual basis participate in formal continuing education relevant to the provision of residential board and care services at least ten (10) hours of related formal training related to the administration and operation of a residential board and care home annually. Records of attendance shall be maintained on file at the residential board and care home.

5.2.5. The administrator is responsible and accountable for the development and execution of all policies and procedures required by this rule.

5.2.6. The administrator shall:

5.2.6.a. Ensure the adequacy and appropriateness of services delivered to the residents.

5.2.6.b. Know the requirements of the rule for residential board and care homes;

5.2.6.c. Be able to conform to applicable statutes, rules and regulations;

5.2.6.d. Be able to keep or supervise the keeping of financial and other records.

5.2.7. The licensee shall notify the secretary in writing within ten (10) days of any permanent change in the administrator, consultant registered professional nurse or supervising nurse (if required) of a residential board and care home. An emergency administrator or supervising nurse who shall be capable of protecting the physical and mental well-being of residents may be employed only upon prior verbal approval from the secretary which the secretary shall confirm in writing. A licensee shall not operate a home more than sixty (60) days without a qualified administrator or supervising nurse acting in these capacities, unless the secretary grants an extension, based on a determination that a reasonable attempt has been made to find a suitable

replacement.

5.2.8. The administrator is responsible for the development and implementation of a quality assurance plan which shall include at a minimum:

5.2.8.a. Review of incidents and accidents (including falls);

5.2.8.b. Medication errors;

5.2.8.c. Pharmacy review;

5.2.8.d. Sanitation and pest control;

5.2.8.e. Food services;

5.2.8.f. Preventative maintenance;

5.2.8.g. Customer satisfaction;

5.2.8.h. Disaster preparedness;

5.2.8.i. In-service training;

5.2.8.j. Resident and employee health;

5.2.8.k. Resident finances and accounts;

5.2.8.l. Outside service arrangements; and

5.2.8.m. Resident records.

5.2.8.n. How often each area will be evaluated;

5.2.8.o. A summary of problems which are identified;

5.2.8.p. Methods to prevent recurrences of identified problems.

5.2.9. The administrator is responsible for arranging for outside services in order to ensure the provision of needed services to the residents. Copies of the written arrangements shall be maintained in the home.

5.3. Admission, Discharge and Transfer. (Class ~~EE~~ I)

5.3.1. A residential board and care home shall not deny admission to a prospective resident on the grounds of race, national origin, religion, age, or sex or disability: Provided, however, That a home may apply to the department for a waiver regarding denial of an admission based on the sex of the applicant. The department may grant a limited waiver if there is a

compelling circumstance for denying admission based on sex.

5.3.2. Individuals admitted to a residential board and care home may be in need of personal assistance in activities of daily living or, in need of supervision because of mental or physical impairment, but shall not be in need of nursing care or have limited and intermittent nursing care needs.

5.3.3. Individuals admitted to a residential board and care home shall be capable of self-preservation.

~~Except as authorized by this rule, individuals admitted to or residing in a residential board and care home shall not require care to manage needs resulting from medical complications, neglect, deterioration of physical or mental body systems, or other causes which require the use by others of intrusive devices or special treatments involving technical knowledge and skills not possessed by individuals who are not trained, licensed health care professionals. Such care includes, but is not limited to: rehabilitative therapies; dressings; tracheostomies; suctioning; injections other than insulin; the use of physical restraints to manage behavior or to limit movement; decubitus care for skin breakdown in excess of a Stage I level; tube feedings of any type; the use of intravenous fluids or medications; sterile procedures; the use of traction; or the provision of more than minimal assistance to aid the resident in getting out of bed or moving from the bed to a chair.~~

~~Catheters used for management of chronic incontinence are not permissible. Catheters used on a temporary basis to manage a short-term acute medical problem are permissible, if the care is overseen by a registered nurse under physician orders. Care givers shall be able to demonstrate the knowledge and performance of effective infection control measures. Instruction and supervision shall be provided by a registered nurse at least every thirty (30) days or as needed. Appliances or devices related to the management of bowel or bladder conditions, such as colostomies, urostomies, or supra-pubic catheters, designed for self-management are permissible.~~

5.3.4. Individuals who qualify for and are receiving services coordinated by a licensed hospice may receive these services in a residential board and care home, except that services utilizing equipment which requires auxiliary electrical power in the event of a power failure, such as ventilators, suction apparatus, oxygen concentrators, and intravenous or tube feeding pumps, shall not be used unless the residential board and care home has a backup power generator. In the event that a resident is receiving limited or intermittent nursing care or hospice services, the residential board and care home shall assure that the hospice client resident has privacy in care and the ability to evacuate in an emergency. The provision of services to the resident receiving limited or intermittent nursing care or hos-

pice care shall not interfere with the provision of services to other residents.

~~Visits to residents by health care providers for professional purposes shall be documented in the resident's record.~~

~~Except as authorized by this rule, individuals admitted to or residing in a residential board and care home shall not have care needs beyond those related to a temporary illness or other condition requiring health care with a prognosis for full recovery to the individual's maximum level of physical and mental status prior to the onset of the illness. Such temporary illnesses include, but are not necessarily limited to: pneumonia, common cold or flu, minor muscle sprains or strains, abrasions, lacerations, fractures of an extremity requiring casting or splint immobilization for an expected six to eight (6-8) week recovery; prescribed bed rest for promotion of healing related to a temporary illness or postoperative recovery with limited activity up to three (3) months.~~

~~Restorative activities which are used to maintain a resident's ability to perform activities of daily living are permissible and shall be encouraged in order to prevent a decline in mental and physical status. Examples of such activities include but are not limited to assistance in walking to maintain mobility, reality orientation to reduce confusion, prompting and directing in the performance of grooming or dressing activities, and assisting the individual by activities such as opening milk cartons, cutting food or prompting eating behaviors.~~

5.3.5. If an individual has an identified mental or developmental disorder, as indicated in the initial health assessment required by this rule or other professional evaluation, he or she shall not be admitted to a residential board and care home unless the residential board and care home can provide evidence of continued professional follow-up to address the individual's current mental health needs or unless he or she is a client of a licensed behavioral health agency which has assigned a case manager who coordinates, monitors and integrates all aspects of the individual's behavioral health service needs.

~~5-3-3:~~ 5.3.6. The relationship of a resident to the residential board and care home shall be covered by a contract entered into at the time of or prior to the individual's admission. The contract shall specify:

~~5-3-3-1:~~ 5.3.6.a. Admission criteria in conformance with the definitions and conditions given in this rule;

~~5-3-3-3:~~ 5.3.6.b. A statement of non-discrimination against residents on the basis of race, national origin, religion, age, or sex or disability;

~~5.3.3.2~~ 5.3.6.c. Services to be offered and a full disclosure of fees for services, including the home's policy regarding annual contract price and refunds;

~~5.3.3.4~~ 5.3.6.d. Information and referral services to be provided by the home with respect to assisting the resident's utilization of social, recreational, and vocational activities within the community;

~~5.3.3.5~~ 5.3.6.e. How the home will protect the resident's personal property from loss and theft;

~~5.3.3.6~~ 5.3.6.f. How the home will assist the resident in making appointments for appropriate medical, dental, nursing or mental health services as needed by the resident and how the home will arrange for transportation to and from these services;

~~5.3.3.7~~ 5.3.6.g. The resident's and home's responsibility for the procurement and payment for prescribed medications, and for the storage, administration and disposition of medications;

~~5.3.3.8~~ 5.3.6.h. The responsibility of the resident's physician for required medical examinations and treatment orders; and

~~5.3.3.9~~ 5.3.6.i. The home's policy regarding transfers and discharges and the resident's and the home's transfer and discharge notification responsibilities.

~~5.3.4~~ 5.3.7. Each party to the contract shall have a copy of the contract.

~~5.3.5~~ 5.3.8. Residential board and care homes shall not offer life care contracts.

5.3.9. Individuals who become bedfast subsequent to admission may be retained during a temporary illness or recovery from surgery if the resident's care does not require nursing care in excess of limited and intermittent nursing care; and the following criteria are substantiated through resident interview:

5.3.9.a. The resident requests to remain in the home;

5.3.9.b. The resident is advised of the availability of other specialized health care facilities to treat his or her condition;

5.3.9.c. The need for such care is the result of a medical pathology or a result of the normal aging process;

5.3.9.d. The home can maintain the resident's safety and continue to meet the resident's needs.

5.4. Records. (Class III)

5.4.1.--The following records and documents shall be available at the home to appropriate State and federal agencies upon request:

5.4.1.1.--Documentation of visits by any professional consultants employed by the home related to resident care;

5.4.1.2.--A copy of all current policies and procedures;

5.4.1.3.--Documentation of control and ownership of the home; and

5.4.1.4.--All other records required by State or federal laws and regulations, except those for which maintenance elsewhere is permitted by the secretary.

5.4.2.--The residential board and care home shall initiate upon admission and maintain a resident care record for each resident of the home.--The record shall contain the following basic information:

5.4.2.1.--Name;

5.4.2.2.--Social security number;

5.4.2.3.--Birth date;

5.4.2.4.--Sex;

5.4.2.5.--Marital status; and

5.4.2.6.--Religious preference and affiliation, if any.

5.4.3.--The resident's record shall contain names, addresses and telephone numbers for the following relevant persons:

5.4.3.1.--Physician;

5.4.3.2.--Dentist;

5.4.3.3.--Legal representative, if applicable;

5.4.3.4.--Person, organization or agency responsible for payments for support of the resident, if applicable;

5.4.3.5.--Next of kin or other interested relatives;

5.4.3.6.--Persons to be notified in case of an emergency or death;

5.4.3.7.--Any case management agency or organization; and

~~5.4.3.8.---Any day care or other programs in which the resident regularly participates.~~

~~5.4.4.---The record shall contain the following information relevant to the personal supervision and assistance to be provided to the resident by the home:~~

~~5.4.4.1.---Initial physician assessment and social history; and~~

~~5.4.4.2.---The dates of physician, dentist and other health and behavioral health care providers and other professional appointments and visits, including those for accidents and illness requiring medical attention, coordinated by the home; and~~

~~5.4.4.3.---Other information required by this rule.~~

~~5.4.5.---The residential board and care home shall maintain a permanent resident register in chronological order according to date of admission.---The register shall include the date of admission, the name of the resident, the date of the last day of residency in the home, and the address to which the resident was discharged.~~

~~5.4.6.---The residential board and care home shall retain resident care records for at least three (3) years past the death or discharge of a resident, or the closure of the residential board and care home, except that records shall not be required to pre-date the effective date of this rule.---At the time of closure, the home shall notify the secretary of the storage location of the records.---In the event of change of ownership of the home, resident care records shall be transferred to the new owner.~~

5.4.1. Records shall be written in ink or typed and shall be legible.

5.4.2. The residential board and care home shall begin at admission, maintain, and keep current, a record for each resident. The contents shall be filed in chronological order and allow easy retrieval of information. The record shall contain at a minimum:

5.4.2.a. Name;

5.4.2.b. Social security number;

5.4.2.c. Birth date;

5.4.2.d. Sex;

5.4.2.e. Marital status; and

5.4.2.f. Religious preference and affiliation, if any.

5.4.3. The resident's record shall contain names, addresses and telephone numbers for the following relevant persons:

5.4.3.a. Physician;

5.4.3.b. Dentist;

5.4.3.c. Legal representative, if applicable;

5.4.3.d. Person, organization or agency responsible for payments for support of the resident, if applicable;

5.4.3.e. Next of kin or other interested relatives;

5.4.3.f. Persons to be notified in case of an emergency or death;

5.4.3.g. Any case management agency or organization; and

5.4.3.h. Any day care or other programs in which the resident regularly participates.

5.4.4. The record shall contain the following information relevant to the personal supervision and assistance to be provided to the resident by the home:

5.4.4.a. Initial health assessment and social history; and

5.4.4.b. The dates of physician, dentist and other health and behavioral health care providers and other professional appointments and visits, including those for accidents and illness requiring medical attention, coordinated by the home;

5.4.4.c. All contact with the resident's physician by the residential board and care home staff; and

5.4.4.d. Other information required by this rule.

5.4.5. The residential board and care home shall note incidents and accidents involving the resident in his or her record, including, at a minimum, the time, place, the action taken in response to the incident and the notification of the resident's physician (if applicable), family or legal representative.

5.4.6. All records which contain the information required by this rule for both residents and personnel shall be retained at the residential board and care home in a secure area.

5.4.7. The licensee shall ensure that all records are treated confidentially and that information shall be made available only when needed for care of the resident. All records shall be made available for inspection by the secretary's duly authorized representative.

5.4.8. The resident or his or her legal representative has the right to release information from the resident's record to persons or agencies outside of the residential board and care home. The licensee is responsible for making available to residents a form which residents may use to grant their written permission to release information to a person or agency outside the residential board and care home. A written release shall be valid for no longer than three (3) months.

5.4.9. The residential board and care home shall keep resident records in safe storage for at least five (5) years from the date of the discharge or transfer of the resident. If the residential board and care home ceases to operate, the home shall procure a holding area for the resident records that will ensure the confidentiality and safety of the records from loss, destruction or unauthorized use. The operator shall submit a plan for storage of the records to the secretary and obtain approval in writing from the secretary.

5.4.10. Each home shall maintain a permanent resident register in a bound notebook in chronological order according to the date of the resident's admission. The register shall include the date of the resident's admission, his or her name, and the date of his or her last day in the residential board and care home and the name and address of the residence, health care facility or other place to which the resident (if living) has been discharged.

5.4.11. The residential board and care home shall comply with the applicable requirements of W. Va. Administrative Rules, Vital Statistics, 64 CSR 32.

#### 5.5. The Licensee (Class II)

5.5.1. The licensee is responsible for compliance with this rule; the terms of the home's license; W. Va. Code §§16-5C-1 et seq.; other relevant federal, State or local laws and regulations; and with the home's policies.

5.5.2. The licensee shall:

5.5.2.a. Give evidence of financial responsibility;

5.5.2.b. Be of good character and reputation;

5.5.2.c. Protect the physical and mental well-being of the residents;

5.5.2.d. Keep the records and make the reports required by this rule for residential board and care homes. The secretary may inspect these records and reports at any reasonable time in order to determine compliance with this rule; and

5.5.2.e. Meet the qualifications of the administrator if he or she assumes those duties.

5.5.3. A residential board and care home sponsored by a religious organization, a corporation or a voluntary association shall be controlled by a governing board of directors that shall fulfill the duties of the licensee.

5.6. Other Uses of the Home (Class III)

5.6.1. A residential board and care home is prohibited from renting, leasing or using its premises for any purposes that disrupts the activities of the residents.

5.6.2. Residence in a residential board and care home is restricted to residents, owners, operator, and employees, unless otherwise approved in writing by the secretary.

5.6.3. A residential board and care home is prohibited from advertising, asserting, representing or otherwise implying in any manner that it may render care or services other than those specifically within the scope of its license.

**§64-65-6. Resident Care Employees.**

**6.1. Employee Qualifications. (Class II)**

The administrator shall assure that all staff are:

6.1.1. Assigned duties in accordance with their level of education, preparation for their responsibilities, and experience;

6.1.2. Of good character;

6.1.3. Clean and well-groomed;

6.1.4. At least eighteen (18) years of age;

6.1.5. Able and willing to accept supervision and training;

6.1.6. Licensed in accordance with any applicable State law; and

6.1.7. Not known to him or her as indicated by reference checks as an employee who has abused or neglected dependent persons.

6.1.8. Screened for tuberculosis and other contagious communicable diseases if indicated by exposure, prevalence or currently accepted medical practice in congregate living situations as indicated by the director of the division of health of the department of health and human resources.

6.2. Staffing Requirements. (Class II)

~~6.2.1.--The residential board and care home shall provide for qualified relief personnel to substitute for staff during vacation, illness, or other absences from the home.~~

~~6.2.2.--The residential board and care home shall employ qualified personnel sufficient in number and competence to provide a quality of service which will meet the needs of the residents on a twenty-four (24) hour basis.--The number and kind of employees required shall be dependent upon the physical plant, the number of residents served and the services provided.~~

6.2.1. Each residential board and care home shall maintain a minimum of one (1) residential care staff between the hours of 6:00 a.m. and 11:00 p.m. who shall be designated as the supervisor-in-charge when the administrator is not present.

6.2.2. Awake staff shall be present in the residential board and care home during normal resident sleeping hours unless all residents are certified by a licensed health care professional as not being in need of sleep time supervision.

6.2.3. A multi-story home shall maintain at least one (1) awake staff while residents are sleeping.

6.2.4. An administrator or supervisor-in-charge shall be on duty at all times. No more than fifty percent (50%) of this person's time shall count toward meeting the minimum staffing requirements. When regular staff and supervisory staff are absent due to illness and vacations, there shall be coverage by substitute personnel with comparable qualifications.

6.2.5. The secretary shall establish for each residential board and care home the minimum number of residential care staff. These minimums do not include staffing requirements for licensed nurses or provide for additional staff needed to meet the needs of residents who require limited and intermittent nursing services.

6.2.6. The number of direct care hours required shall be based upon an average numerical assessment of the residents' personal assistance as identified by the assessment tool provided by the secretary.

6.2.7. Each resident shall be rated utilizing the assessment tool provided by the secretary to determine personal assistance needs. The ratings shall then be totaled and divided by the total number of residents. Staffing shall be provided based upon the Table 64-65.2 found at the end of this rule.

~~6.2.3.~~6.2.8. Each residential board and care home shall maintain and furnish to the secretary upon request information

from personnel records setting forth the number (in full-time equivalents) and types of employees on duty in the home at any given time.

6.2.9. The residential board and care home shall provide for qualified relief personnel to substitute for staff during vacation, illness, or other absences from the home.

6.2.10. Residential support staff shall be retained as necessary to meet the laundry, food service, housekeeping, and maintenance requirements of this rule.

6.3. Employee Orientation. (Class III)

6.3.1. The residential board and care home shall implement a written plan for orientation and in-service training.

6.3.2. Orientation and training for employees with resident care responsibilities shall be provided within the first fifteen (15) days of employment and shall include:

- 6.3.2.a. Personal grooming care;
- 6.3.2.b. Personal hygiene care;
- 6.3.2.c. Feeding assistance;
- 6.3.2.d. Providing assistance in other activities of daily living;
- 6.3.2.e. The application of soft restraints;
- 6.3.2.f. Emergency care of residents (first aid and CPR);
- 6.3.2.g. ~~Instruction-in-the~~ Policies and procedures of the home;
- 6.3.2.h. Resident rights;
- 6.3.2.i. Complaint procedures of the home;
- 6.3.2.j. Nutrition, food service and meal preparation;
- 6.3.2.k. The activities program;
- 6.3.2.l. Emergency plans for the home, including fire safety and evacuation plans;
- 6.3.2.m. The care of aged, infirm or disabled adults with consideration for individual capabilities and needs;
- 6.3.2.n. The responsibilities of the residential care staff for assisting residents (i.e. individualized service plans);

6.3.2.o. Professionally-designed intervention strategies to help a resident with behavioral health needs to manage his or her behavior;

~~6.3.2.i3.~~ 6.3.2.p. Protection of resident privacy and confidentiality; and

~~6.3.2.i4.~~ 6.3.2.q. Abuse, neglect, mistreatment and procedures to address the occurrence thereof which shall include information on: the State adult protective services agency and the toll-free hot line number (1-800-352-6513); the State licensure and certification agency (1-304-348 558-0050); the State commission on aging (1-304-348-3317); and various other concerned advocacy and protection organizations.

6.3.3. The residential board and care home may modify orientation and training for individual employees if there is proof on file of the completion of a nursing assistant training program. Completion of such a course satisfies the requirement for training in the areas of personal grooming, hygiene, assistance in feeding and activities of daily living. All other topics required by this rule shall be addressed in orientation to the home's policies and procedures.

6.3.4. The residential board and care home shall provide ongoing in-service training which is relevant to the provision of services to residents in a residential board and care home to the residential staff. Training shall be provided annually in the areas of:

6.3.4.a. Resident rights;

6.3.4.b. Abuse, neglect, mistreatment, and procedures to prevent the occurrence of such incidents;

6.3.4.c. Emergency care of residents (first aid and CPR);

6.3.4.d. Emergency plans for the home, including fire safety and evacuation plans; and

6.3.4.e. The responsibilities of the residential care staff for assisting residents (i.e. individualized service plans).

6.4. Resident Work (Class III)

6.4.1. Any resident who performs any staff duties shall meet the personnel and health requirements for that position.

6.4.2. A resident may perform services for the home when:

6.4.2.a. The home has documented the resident's need or desire for work in the service plan in the resident's record;

6.4.2.b. The agreement specifies duties, hours of work and compensation;

6.4.2.c. The agreement is not a condition for admission or continued residence; and

6.4.2.d. The resident enters into the agreement voluntarily.

6.5. Volunteers (Class III)

6.5.1. Any volunteers rendering services in the residential board and care home shall:

6.5.1.a. Have qualifications appropriate to the services they render;

6.5.1.b. Be subject to the laws and regulations governing confidential treatment of residents' personal information; and

6.5.1.c. Be free from communicable disease in an infectious stage.

6.5.2. The duties and responsibilities of volunteers shall be clearly differentiated from those of regular staff.

6.5.3. At least one (1) staff member shall be assigned the responsibility for overall selection, supervision and orientation of all volunteers.

6.6. Personnel Records (Class III)

6.6.1. The residential board and care home shall maintain a confidential personnel record on each employee, including the administrator and the operator, and household members who provide services to residents. Each record shall contain at least the following:

6.6.1.a. An employment application which includes at least the individual's current home address and telephone number, emergency contacts, social security number and the names and telephone numbers of references;

6.6.1.b. Documentation of the results of a criminal record investigation regarding previous convictions involving abuse, mistreatment or neglect of dependent populations;

6.6.1.c. Verification of qualifications related to education, training, licensure, registration or certification of all health care professionals and support staff;

6.6.1.d. The date of employment and position title;

6.6.1.e. A record of orientation and ongoing training;

6.6.1.f. The date and reason for termination of employment;

6.6.1.g. A health record containing the results of pre-employment and annual physical examinations, including screening for tuberculosis and other contagious diseases as indicated by exposure, prevalence or currently accepted medical practice in congregate living situations as indicated by the director of health of the State department of health and human resources.

6.6.2. Personnel records shall be maintained on file at the residential board and care home for at least five (5) years following termination of employment.

§64-65-7. Resident Rights.

~~7.1.--General Rights.--(Class III)~~

~~7.1.1.--The residential board and care home shall not segregate residents, give separate treatment, restrict the enjoyment of any advantage or privilege enjoyed by others in the home, or provide aid, care services, or other benefits which are different or are provided in a different manner from those provided to others in the home on the grounds of race, national origin, religion, age, or sex.~~

~~7.1.2.--The residential board and care home shall encourage and assist residents to exercise their rights as residents and citizens.~~

~~7.1.3.--The residential board and care home shall not interfere with, shall not coerce, or discriminate against any resident and the residential board and care home shall not make any reprisals against any resident as a result of the resident's exercise of his or her rights.~~

~~7.1.4.--Resident rights and responsibilities can only be exercised by the resident, except to the extent those rights have been granted to a legal representative.~~

~~7.1.5.--An administrator or employee of a residential board and care home or a person having a financial interest in the home shall not accept appointment as a guardian or committee or as any type of power of attorney for a resident, except in instances when the resident is a spouse, child, sibling or parent of the administrator, employee or person with a financial interest in the home.~~

~~7.2.--Rights to Communication and Personal Property.--(Class II)~~

~~7.2.1.--The residential board and care home shall permit~~

residents-to-express-grievances-to-the-home-and-to-communicate the-need-for-changes-in-the-home-to-employees-and-outside-representatives-of-the-resident's-choice.

7.2.2.--The-residential-board-and-care-home-shall-allow residents-to-visit-with-and-communicate-privately-with-individuals-of-their-choice.

7.2.3.--The-residential-board-and-care-home-shall-allow residents-unimpeded,-private-and-uncensored-communications-with others-by-mail-and-by-telephone.--If-the-residential-board-and care-home-regularly-opens-mail-for-or-reads-mail-to-a-resident-or both,-there-shall-be-a-written-signed-consent-on-file-in-the resident's-record.

7.2.4.--The-residential-board-and-care-home-shall-make-telephones-reasonably-accessible-and-shall-ensure-that-correspondence can-be-conveniently-received-and-mailed.--Reasonable-times-and places-for-telephone-use-may-be-established-and,-if-established, shall-be-in-writing.

7.2.5.--The-residential-board-and-care-home-shall-give-residents-the-opportunity-to-meet-with-and-participate-in-the-activities-of-social,-religious-and-community-groups-at-their-discretion.

7.2.6.--The-residential-board-and-care-home-shall-permit residents-to-retain-and-use-personal-clothing-and-possessions subject-to-limitations-of-space,-sanitation,-safety-and-the-potential-for-infringing-upon-the-rights-of-other-residents.--The home-may-specify-in-the-admission-contract-conditions-limiting the-liability-accepted-by-the-home-for-clothing-and-possessions.

7.2.7.--The-residential-board-and-care-home-shall-maintain on-file-a-current-inventory-of-all-possessions-of-the-resident-in use-in-the-home-which-shall-be-signed-by-the-resident-and-by-a representative-of-the-home.--The-home-shall-give-the-resident-a copy-of-the-inventory.

### 7.3.--Rights-with-Regard-to-Treatment.--(Class-III)

7.3.1.--The-residential-board-and-care-home-shall-give-residents-the-opportunity-to-participate-in-the-planning-of-their care-and-supervision.

7.3.2.--The-residential-board-and-care-home-shall-permit residents-to-select-their-own-personal-physician.

7.3.3.--The-residential-board-and-care-home-shall-permit-a resident-to-refuse-any-medical-treatment.--The-home-may-inform-a resident,-however,-that-failure-to-follow-his-or-her-treatment plan-may-result-in-behavior-or-a-medical-condition-which-requires services-which-are-not-available-in-a-residential-board-and-care

home.

7.3.4.--The residential board and care home shall not require residents to perform services for the home, nor be required to participate in any social, recreational or religious activity.

7.4.--Rights With Regard to Abuse and Restraint.--(Class I)

7.4.1.--The residential board and care home shall assure that each resident is free from physical or mental abuse, neglect, corporal punishment, involuntary seclusion, and any other physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.--The home shall not use physical restraints except in an emergency for the safety of the resident and others in the home until professional help arrives.--Restraints utilized during emergencies are limited to cloth vest or soft belt restraints only and their use shall not exceed four (4) hours.--

7.5.--Confidentiality, Privacy and Record Access.--(Class III)

7.5.1.--The residential board and care home shall assure residents confidential treatment of their personal care records and condition, which shall not be discussed without the residents' consent with or in the hearing range of persons not treating or caring for the residents.

7.5.2.--A resident may refuse the release of his or her personal care records to any individual outside the home, except as required by law or third party payment contracts.

7.5.3.--The residential board and care home shall permit residents to inspect their own records during ordinary business hours or at other reasonable times subject to any relevant State or federal laws.

7.5.4.--The residential board and care home shall treat residents in a manner which assures privacy in their treatment and daily living.

7.6.--Financial Rights.--(Class III)

7.6.1.--A resident may manage his or her personal financial affairs, except when the resident has been adjudicated incompetent or has a legal representative.

7.6.2.--A resident is liable only for charges which have been included in the admission contract between the resident and the home, including any written modification of the contract, except for charges for emergency services which could not have been reasonably anticipated when the contract was signed or amended.

7.6.3.--A residential board and care home may manage a resident's personal funds only on the written prior authorization of the resident or his or her legal representative.

7.6.4.--Upon a home's acceptance of written authorization of a resident to handle his or her personal funds, the home shall manage and account for the personal funds under a system established and maintained in accordance with the following:

7.6.4.1.--The home shall deposit any amount of a resident's personal funds in excess of two hundred dollars (\$200) in an interest-bearing account that is separate from any of the home's operating accounts.-- All interest earned by the resident's funds shall be credited to the resident.-- All personal funds of residents shall be kept separate from the home's operating funds;

7.6.4.2.--The home shall assure a full and complete separate annual accounting of each resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident, and afford the resident (or a legal representative of the resident) reasonable access to the record; and

7.6.4.3.--Upon the death of a resident with such an account, the home shall convey promptly the resident's personal funds and a final accounting of the funds to the individual administering the resident's estate.

7.6.5.--The residential board and care home shall retain resident financial records at least three (3) years past the death or discharge of a resident, or the closure of the home, except that records shall not be required to pre-date the effective date of this rule.-- At the time of closure, the home shall notify the secretary of the storage location of the records.-- In the event of change of ownership of the home, resident financial records shall be transferred to the new owner.

7.6.6.--The residential board and care home shall make locked storage for small valuables available to residents.

#### 7.7.--Access.--(Class II)

7.7.1.--A residential board and care home shall be open for general visitation for at least ten (10) hours per day, seven (7) days per week.

7.7.2.--The residential board and care home shall permit lawful access to the home by representatives of various State and other advocacy and protection organizations in the execution of their responsibilities under applicable State and federal laws and regulations.

7.7.3.--A residential board and care home shall permit rea-

sonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

~~7.8. -- Notice of Rights and Responsibilities. -- (Class III)~~

~~7.8.1. -- Each residential board and care home shall:~~

~~7.8.1.1. -- Inform each resident, orally and in writing at the time of admission to the home, of the resident's legal rights during the stay at the home, and~~

~~7.8.1.2. -- Make available to each resident, upon reasonable request, a written statement of these rights.~~

~~7.8.2. -- The written description of legal rights shall include a statement that a resident may file a complaint with the State licensure and certification agency, the State commission on aging, the State adult protective services agency and other concerned advocacy and protection organizations regarding resident abuse and neglect, misappropriation of resident property by the home, or non-compliance with this rule. -- The written statement shall include addresses and telephone numbers (toll-free, if available) for these agencies and organizations.~~

~~7.8.3. -- A copy of the list of resident rights shall be conspicuously posted in the home at all times.~~

~~7.8.4. -- The residential board and care home shall make available in the same manner as the list of legal rights a written statement setting forth the rules of conduct and the resident responsibilities for the home as required by Section 5.1.4 of this rule. -- These shall be conspicuously posted in the home at all times.~~

7.1. Posting of Information and General Rights (Class III)

The residential board and care home shall post in a conspicuous place the following:

7.1.1. Residents' rights;

7.1.2. Phone numbers of the abuse hotline (1-800-352-6513); the office of health facility licensure and certification (558-0050); the state ombudsman (558-3317); and the regional ombudsman.

7.1.3. Information about the ombudsman program including: (1) the name, address and telephone number of the designated long-term care ombudsman program serving the region in which the residential board and care home is located; (2) a brief description of the services provided by the long-term care ombuds-

man program; and (3) a statement as to the penalties for willful interference and retaliation.

7.1.4. The residential board and care home shall promptly notify the resident's legal representative or interested family member whenever there is a change in resident's rights; a change in room or roommate assignment; when discharge is considered; and when there is a significant change in the resident's condition.

7.1.5. If a legal representative has been appointed for or designated by any resident, as having the authority to exercise on behalf of the resident one or more of the resident's rights under this rule, the home shall afford the legal representative full opportunity to exercise the resident's rights. A legal representative so appointed or designated shall exercise his or her authority in a manner consistent with all applicable state and federal laws and regulations.

7.1.6. Nothing in this rule shall in any way be construed to diminish or deprive any individual of rights recognized and established under other laws of the State of West Virginia or of the United States.

7.1.7. The residential board and care home shall encourage and assist a resident throughout the duration of his or her stay to exercise his or her rights as a resident and as a citizen, such as voting in governmental elections.

7.1.8. The resident has the right to be free from restraint, interference, coercion, discrimination, or reprisal from the residential board and care home in exercising his or her rights.

## 7.2. Exercise of Rights (Class II)

The residential board and care home shall not discriminate against residents on the grounds of race, religion, national origin, gender, or disability.

## 7.3. Notice of Rights and Services (Class II)

7.3.1. The residential board and care home shall inform a resident and any legal representative both orally and in writing in a language that the resident understands of the resident's rights and responsibilities; the home's policies; available services; and emergency procedures, upon admission. Current residents shall be informed within fourteen (14) days of the implementation of this rule.

7.3.2. The residential board and care home shall provide a copy of the residents' rights to the resident with duplicates on request. The date the rights are distributed shall be recorded.

7.3.3. The residential board and care home shall post resident's rights and its current license in a conspicuous location at eye level in the home. The statement shall be easily readable with at least ten (10) point type.

7.3.4. The resident has the right to inspect and purchase photocopies at a reasonable cost of all records pertaining to him or her.

7.3.5. The residential board and care home shall inform each resident of the names, specialties, and means of contact with the physician responsible for his or her care.

7.3.6. The residential board and care home shall notify the resident and the resident's legal representative or interested family member within seventy-two (72) hours unless agreed to by all involved parties when there is:

7.3.6.a. A change in room or roommate assignment;

7.3.6.b. A change in resident's rights under federal or State law or regulation.

7.3.7. The residential board and care home shall give a thirty-day notice of discharge unless an emergency situation which requires transfer to a hospital or other higher level of care exists or if the resident is a danger to his or herself or others. A copy of the written discharge notice shall be filed in the resident's record.

7.3.8. Residents shall have the right, if they so choose, to view the results of inspections and complaint investigations conducted by the office of health facility licensure and certification. The deficiencies cited during the most recent survey or complaint investigation and the residential board and care home's plan of correction shall be posted.

#### 7.4. Treatment (Class I)

7.4.1. The residential board and care home shall give a resident the opportunity to participate in planning his or her overall care. The resident has the right to be fully informed in advance about care and treatment that may affect him or herself.

7.4.2. No resident shall be abused, neglected, mistreated, or restrained by physical or chemical means. Suspected abuse and neglect shall be immediately investigated by the administrator or a designated staff member with written notification and documentation within twenty-four (24) hours. The investigation shall be documented and appropriate action to alleviate a recurrence of any neglect or abuse shall be taken.

7.4.3. The resident has the right to refuse to participate

in experimental research. A resident shall participate in experimental research only on the basis of prior written informed consent. Any informed consent procedures shall be in conformance with applicable state and federal laws, rules and regulations.

7.4.4. Necessary treatments such as medical services, mental health services, dental services, physical therapy and other rehabilitation services shall be obtained by the home. Transportation to necessary services shall either be provided by the residential board and care home, arranged through the service provider, or provided by an interested third party.

7.4.5. The residential board and care home shall allow residents to choose their own physician and pharmacist in lieu of the home's physician and pharmacist. The home shall promptly notify the resident's physician when there is a major incident or any significant change in the resident's condition.

7.4.6. A resident who has not been adjudicated incompetent shall have the right to refuse treatment.

#### 7.5. Protection of Resident Funds (Class II)

7.5.1. The resident has the right to manage his or her financial affairs, and the home may not require residents to deposit their personal funds with the home.

7.5.2. The licensee is responsible for maintaining fiscal records which accurately identify, summarize, and classify funds received and disbursed for the operation of the home. A recognized system of accounting shall be used to accurately reflect details of the business, including residents' trust funds and other property. The home shall be administered on a sound financial basis consistent with good business practices. Evidence of issuance of bad checks or accumulation of delinquent bills shall constitute prima facie evidence that the ownership lacks satisfactory proof of financial ability to operate the home in accordance with the requirements of W. Va. Code §16-5C-6.

7.5.3. If the licensee agrees to manage a resident's funds there shall be a system utilizing generally acceptable accounting principles to manage the funds in the resident's best interests.

7.5.4. The residential board and care home shall, if it handles resident monies in excess of twenty-five dollars (\$25.00) per resident and in excess of five-hundred dollars (\$500.00) for all patients in any month, give a bond in an amount and with such surety as the secretary shall approve sufficient to cover all resident accounts at all times. The licensee shall file a bond in the sum to be fixed by the secretary based upon the magnitude of the operations of the applicant but which sum may not be less than two-thousand five-hundred dollars (\$2,500) as shown in Table 64-65.3 found at the end of this rule. Whenever the amount of

any bond which is filed pursuant to this subsection is insufficient to adequately protect the money of patients being handled, or whenever the amount of such bond is impaired, the licensee shall file an additional bond in such amount as necessary to adequately protect the money of patients being handled.

7.5.4.a. The system shall not commingle resident funds with the home's funds or with the funds of any person other than another resident.

7.5.4.b. The resident account record shall show in detail with supporting documentation all monies received on behalf of the resident and the disposition of all funds received. Persons shopping for residents shall provide a list showing a description and price of items purchased, along with payment receipts for these items.

7.5.4.c. The home shall render a true and complete accounting upon request to the depositor and the secretary and at least quarterly to the resident and his or her legal representative.

7.5.4.d. Upon termination of the deposit, the home shall account to the depositor for all funds received, expended and held on hand.

#### 7.6. Self Determination (Class III)

7.6.1. A resident may meet with and participate in the activities of social, religious, and community groups, at his or her discretion.

7.6.2. Residents have the right to assemble and organize themselves as a group to solicit and recommend improvements in the home's services and to resolve problems that may arise between the residents and the home.

7.6.3. A resident shall not be compelled to retire at night or arise in the morning at the same set time.

7.6.4. Residents shall be free to leave the residential board and care home.

#### 7.7. Privacy and Confidentiality (Class III)

7.7.1. The resident has the right to personal privacy and confidentiality of his or her personal and permanent resident record. Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits and meetings of family and resident groups, but does not require the home to provide a private room.

7.7.2. The resident has the right to associate and communicate privately with persons of his or her choice.

7.7.3. No person shall enter a resident's room without identifying him or herself to the resident and receiving the resident's permission to enter.

7.7.4. Privacy shall be maintained when personal assistance is being provided. Resident bedrooms shall not be used as passageways.

7.7.5. Spouses shall be allowed to share the same bedroom.

#### 7.8. Complaints (Class II)

7.8.1. The resident has the right to voice grievances with respect to treatment or care that is, or fails to be, furnished without discrimination or reprisal for voicing the grievance.

7.8.2. The resident has the right to prompt action by the home to resolve grievances the residents might have, including those with respect to the behavior of other residents.

7.8.3. The residential board and care home shall permit a resident to express grievances and to communicate to the residential board and care home staff and outside representatives of the resident's choice the need for changes in the residential board and care home policies or practices.

7.8.4. The residential board and care home shall assess the validity of all complaints and shall respond to the complainant in writing as to actions to be taken or not taken with reasons therefor, within twenty-four (24) hours of receipt of the complaint.

7.8.5. The residential board and care home shall be prohibited from discharging or discriminating in any way against any resident by whom or on whose behalf a complaint has been made or who has assisted in the submission of a complaint.

7.8.6. Nothing in this rule shall be construed to limit in any way the lawful authority of the State department of health and human resources to administer and implement W. Va. Code §9-6-1 et seq. relating to adult protective services.

#### 7.9. Work (Class III)

7.9.1. The resident has the right to be employed outside of the home.

7.9.2. The resident has the right to refuse to perform services for the home.

7.9.3. The resident may perform services for the home if the requirements established in this rule are met.

7.10. Mail and Communication (Class III)

7.10.1. The resident has the right to send and promptly receive unopened mail. A resident may request a staff member to open and read correspondence.

7.10.2. The resident has the right to have access to stationary, postage and writing implements at the resident's own expense.

7.10.3. Regular telephones shall be available to residents for local calls at no cost to the resident. Coin operated telephones may be provided for long distance calls, but no collect calls shall be allowed. Appropriate privacy shall be afforded to the resident during telephone use.

7.11. Access and Visitation Rights (Class II)

7.11.1. The resident has the right to receive visitors and the home shall allow access to the resident for the visitors during established visiting hours.

7.11.2. A residential board and care home shall establish visiting hours, consisting of at least twelve (12) hours per day, seven (7) days per week. Visiting hours shall be posted conspicuously in a public place in the home.

7.11.3. Relatives and members of the clergy shall be permitted to visit at any time.

7.11.4. All of the following shall have immediate access to any resident and the premises of the home:

7.11.4.a. Any representative of the State acting in an official capacity related to residential board and care homes;

7.11.4.b. The resident's individual physician;

7.11.4.c. The State and local long term care ombudsmen; and

7.11.4.d. Agencies responsible for the protection and advocacy system for mentally retarded or developmentally disabled individuals and the mentally ill.

7.11.5. The resident has the right to receive information from agencies acting as client advocates such as the State's long term care ombudsman program, and to be afforded the opportunity to contact these agencies.

7.11.6. The residential board and care home shall provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the

resident, subject to the resident's right to deny or withdraw consent at any time.

7.12. Personal Property (Class III)

7.12.1. The resident has the right to retain and use personal possessions including furnishings, and appropriate clothing as space permits, unless to do so would infringe upon the rights, health or safety of other residents.

7.12.2. The residential board and care home shall establish and enforce policies and procedures to protect the resident's personal property from loss and theft.

7.13. Civil Rights (Class II)

7.13.1. No residential board and care home shall deny admission or service to a prospective resident on the grounds of race, religion, national origin, age, gender, or disability except as authorized by this rule.

7.13.2. The residential board and care home shall not segregate any resident, give separate treatment, restrict in the enjoyment of any advantage or privilege enjoyed by others in the residential board and care home, or provide with any aid, care services, or other benefits which are different or are provided in a different manner from those provided to others in the residential board and care home on the grounds of race, religion, national origin, age, gender, disability, or financial status.

7.13.3. Residential board and care homes shall have non-smoking areas and may adopt no-smoking policies. Current residents who smoke shall not have smoking privileges terminated through a no-smoking policy.

**§64-65-8. General Health and Safety.**

**8.1. Operational Standards. (Class II I)**

8.1.1. The residential board and care home shall have a written disaster plan.

8.1.2. Brief instructions and guidelines regarding emergency procedures shall be available at strategic locations and evacuation routes shall be posted as appropriate.

8.1.3. The residential board and care home shall have a standing arrangement for emergency transport and care of residents in a medical emergency.

8.1.4. The residential board and care home shall comply with any applicable State and local laws and regulations.

8.1.5. The routine of the residential board and care home shall be such that emergency aid for commonly occurring household injuries is readily available at all times.

8.2. Personal Care, Health Care and Medication. (Class ~~FF~~  
I )

8.2.1. The routine of the home shall be such that residents may spend the majority of their waking hours outside their bedrooms.

8.2.2. Residents shall be generally up and about during normal waking hours. Individual preference of residents for time of retiring and rising shall be permitted, except as indicated by the resident's physician, and subject to limitations to prevent disturbing other residents.

8.2.3. The residential board and care home shall encourage and assist all residents in developing and maintaining independence and self-determination.

8.2.4. The residential board and care home shall provide each resident a written, signed and dated health assessment by a licensed physician or other licensed health care professional authorized to perform such assessments by applicable State laws and rules not more than forty-five (45) days prior to the resident's admission, or no more than five (5) working days following admission, and at least annually thereafter. The admission and annual health assessment shall include screening for tuberculosis and other contagious communicable diseases if indicated by exposure, prevalence or risk according to current medical practice in congregate living situations as indicated by the director of the division of health of the department of health and human resources.

8.2.5. The written admission assessment required by this rule shall include documented certification by a physician or psychologist that the resident is capable of self-preservation by virtue of his or her ability to follow directions and, with verbal prompting if necessary, to take appropriate action for self-preservation under emergency conditions, except as provided in this section. The certification shall be updated as indicated by changes in the resident's physical or mental condition. ~~This certification-is-not-required-of-an-individual-who-is-a-resident-at-the-time-of-the-initial-licensure-survey,-which-resident-is-not-capable-of-self-preservation-but-who-has-been-informed-that-the-home-does-not-meet-fire-safety-standards-for-non-self-preserving-residents-and-has-accepted-in-writing-that-risk.~~

8.2.6. When a resident is in need of specialized professional ~~physical-or-mental~~ health care, the residential board and care home shall assist the resident as needed in making arrangements with the appropriate agency or professional care-giver for

the care needed.

8.2.6.a. If a resident exhibits symptoms of a mental or developmental disorder, and the resident is not receiving services to meet his or her current needs, is not a client of a behavioral health center, or does not have a case manager, the home shall advise the individual or his or her legal representative of his or her behavioral health service options within the community. The resident shall have thirty (30) days to obtain necessary services. If the resident or his or her legal representative fails to meet the resident's needs in this area in a timely manner, then the residential board and care home shall refer the individual to a licensed behavioral health agency.

8.2.7. The residential board and care home shall take all necessary precautions to ensure an accident-free environment for the residents.

8.2.8. The residential board and care home shall take reasonable precautions to protect residents and employees from communicable diseases. When in doubt of the seriousness of the disease or condition, a physician shall be consulted.

8.2.9. A standard American Red Cross first-aid kit, or the equivalent, shall be readily available at all times in the home.

8.2.10. The residential board and care home shall make provision for the administration or self-administration of medicines and drugs according to physician orders in compliance with applicable State laws.

8.2.11. The residential board and care home shall ensure that persons administering medications are licensed, certified or trained in accordance with programs approved by the secretary.

~~8-2-11-~~ 8.2.12. No prescription drugs shall be kept in the home unless they have been legally labeled and dispensed by a licensed pharmacist, and all medications and drugs shall be kept in their original labeled containers.

~~8-2-12-~~ 8.2.13. The residential board and care home shall store all medications in a way as to be inaccessible to those residents for whom they are not prescribed.

~~8-2-13--When-a-resident-is-in-need-of-daily-injections-such-as-insulin,-the-staff-giving-the-injections-shall-be-trained-by-a-medical-professional.--This-training-shall-be-documented-~~

8.2.14. All residential board and care homes shall make arrangements for a registered nurse to manage and provide nursing services for all residents of the residential board and care home as specified in this rule. Those residential board and care

homes that provide limited and intermittent nursing care shall comply with the requirements established in this rule. Arrangements for nursing services may be made by contract with an individual, a nursing service, or the residential board and care home may employ a registered nurse, or the administrator of the residential board and care home may act in this capacity. The frequency with which a registered professional nurse shall provide services to the residential board and care home not providing limited and intermittent nursing services shall be as follows:

8.2.14.a. Facilities with a licensed bed capacity of ten (10) or less shall secure the services of a registered professional nurse based upon the needs of the residents.

8.3. Accident, Illness and Major Incident Procedures (Class I)

8.3.1. When a resident suffers a serious accident or illness, ~~professional-medical-attention shall be secured immediately~~; the residential board and care home shall arrange for an appropriately licensed health care provider to:

8.3.1.a. Assess the severity and cause of the accident or illness;

8.3.1.b. Advise the residential board and care home as to the need to seek emergency assistance related to the accident or illness; and

8.3.1.c. Evaluate methods to prevent reoccurrence of such accidents or illnesses;

8.3.1.d. Make recommendations to the residential board and care home; and

8.3.1.e. Record actions taken in the resident's record, and, if the actions taken are relevant for other residents, in the general record required by this rule. If the resident has an obvious need for emergency assistance, the person on duty should first obtain emergency assistance, and then call the licensed health care provider.

8.3.2. Major incidents shall be reported to the secretary by the licensee.

~~8.3.2.~~ 8.3.3. The residential board and care home shall document monitoring of the resident's condition for a period of twenty-four (24) hours following the accident or the onset of the illness or as specified by the professional care provider.

**§64-65-9. Resident Services and Recreational Activities.**

~~9.1.---Resident-Services---(Class-III)~~

~~9.1.1.---Services-shall-include-assistance-to-the-resident and-the-resident's-family-in-the-adjustment-to-the-residential board-and-care-home-setting-and-in-the-adjustment-to-transfer when-other-levels-of-care-become-necessary.~~

~~9.1.2.---Services-shall-include-assistance-to-the-resident-in identifying-and-maintaining-liatson-with-community-services-and activities.~~

9.1. Standard Personal Care Services (Class II)

9.1.1. Services shall include assistance to the resident and the resident's family in the adjustment to the residential board and care home setting and in the adjustment to transfer when other levels of care become necessary.

9.1.2. The residential board and care home shall evaluate the continued appropriateness of residence of an individual in the home.

9.1.3. The home shall provide personal supervision and assistance in performing activities of daily living or instrumental activities of daily living, as identified by the resident's functional needs assessment.

9.1.4. The home shall provide supervision by designated staff for daily awareness of the general health, safety, and physical and emotional well-being of the resident.

9.1.5. The home shall provide general household services essential for the health and comfort of residents such as floor cleaning, dusting, and bedmaking.

9.1.6. The home shall provide three (3) meals daily, seven (7) days a week and special diets and snacks which meet resident needs and choices.

9.1.7. The home shall provide information and referral services and opportunities for utilization of social, recreational, vocational activities within the community.

9.1.8. The home shall provide or arrange for transportation of the resident to receive medical and social services.

9.1.9. The residential board and care home shall allow a resident to refuse any treatment. The home may inform a resident, however, that failure to follow his or her service plan may result in a behavioral or medical condition which requires services which are not available in a residential board and care home.

9.2. Functional Assessment and Comprehensive Service Plans (Class I)

9.2.1. Every resident shall have an individualized functional needs assessment which shall be completed within thirty (30) days after admission and shall include:

9.2.1.a. A periodic health assessment which includes a list of treatments, therapies and activities necessary to meet physical health needs;

9.2.1.b. A psychological assessment for any person with behavioral health needs, completed upon admission and every three (3) years thereafter unless the resident has experienced significant changes that would warrant re-evaluation;

9.2.1.c. A social needs assessment, reviewed at least once annually, which shall include a resident history, emergency contact names and telephone numbers, a list of activity and recreational preferences, current financial status (if the home is managing resident funds), and information related to the resident's directives; and

9.2.1.d. A nursing assessment, reviewed at least once annually, unless the resident is receiving limited and intermittent nursing services which would increase the frequency of the review to once every six (6) months, or as required by standards governing services provided by an outside agency if an agency is providing services to the individual within the home, which shall include a review of systems, vital signs, allergies, nutritional status, psychosocial status, medications and reason for use, and progress related to any therapy provided during the current review period.

9.2.2. Every resident shall have a service plan consistent with the functional needs assessment which shall be developed within forty-five (45) days of admission and updated at the time of any significant or permanent change in condition, but at least once every six (6) months and shall include but not be limited to the following areas of needs:

9.2.2.a. Activities of daily living services;

9.2.2.b. Instrumental activities of daily living services;

9.2.2.c. Social and recreational services;

9.2.2.d. Therapy services;

9.2.2.e. Medical and nursing services;

9.2.2.f. Medication administration services; and

9.2.2.g. Transportation services.

9.2.3. The home shall provide treatment and care in accordance with the functional needs assessment and service plan.

9.2.4. Formal reassessment and an individualized service plan review shall be documented in the resident's record at least annually based upon the month of the resident's admission.

9.2.5. The individualized service plan shall reflect the resident's assessed needs and support the principles of individuality, personal dignity, freedom of choice and homelike environment.

9.2.6. The licensee or administrator shall designate a staff person to review, monitor, implement and make appropriate modifications to the individualized service plan.

9.2.7. The residential board and care home shall encourage residents to actively participate in the planning of their care and supervision.

9-2 9.3. Recreational Activities. (Class II)

9-2-1 9.3.1. The residential board and care home shall encourage but not require residents to participate in activities which may be scheduled.

9-2-2 9.3.2. The residential board and care home shall not restrict a resident's participation in an activity except upon a physician's order. The physician's order shall specify the type of activity and the duration of the restriction.

9-3 9.4. Pets and Other Animals. (Class II)

9-3-1 9.4.1. Pets are permitted, provided that all residents are advised prior to admission that pets are kept on the premises. If pets are added after the admission of residents, all residents shall agree to having pets.

9-3-2 9.4.2. Wild, dangerous or obviously ill animals are prohibited.

9-3-3 9.4.3. Animals and their quarters shall be kept in a clean condition at all times.

9-3-4 9.4.4. Dogs and cats kept in the home or on the grounds of the home shall be properly vaccinated (for dogs this includes rabies, leptospirosis, distemper, and parvo and for cats this includes rabies). Documentation of the vaccination and prevention measures shall be available on the premises.

9-3-5 9.4.5. Pets are not permitted in a resident's bedroom

without the resident's consent and are not permitted in food preparation areas.

9-3-6 9.4.6. Dogs shall be licensed in accordance with State and local laws. The license or other proof shall be available for review on the premise of the home.

**\$64-65-10. Dietetic Service.**

**10.1. General. (Class II)**

10.1.1. When therapeutic diet services are provided by the home, a physician's order for each diet and the meal pattern, including types and amounts of food to be served, shall be on file. Therapeutic diets shall be prepared and served as ordered by the physician. At no time shall a resident be offered less than one thousand two hundred (1,200) calories daily.

10.1.2. Foods shall be prepared and seasoned by methods that conserve nutritional value, flavor and appearance, and shall be attractively served at safe and palatable temperatures in a form to meet the needs of individual residents.

10.1.3. Not more than fourteen (14) hours shall elapse between the evening meal and breakfast the next morning, which shall not be served before 7:00 a.m.

10.1.4. Every resident shall be encouraged to eat in designated dining areas. The home shall not routinely designate private living areas and hallways as dining areas.

10.1.5. A supply of appropriate and customary tableware in good condition shall be available for each resident.

**10.2. Nutrition. (Class I)**

10.2.1. The residential board and care home shall ensure that each resident is offered at least three (3) meals daily which shall be freshly prepared each day.

10.2.2. A continental breakfast, consisting of at least cereal, milk, juice, toast and beverage, shall be readily available for residents who choose to sleep beyond the regular breakfast meal time. The total nutrients of meals and snacks provided to residents participating in a continental breakfast shall meet the requirements of Section ~~10-2-8~~ 10.2.7 of this rule and three (3) meals shall be available as required by Section 10.2.1 of this rule.

10.2.3. Meals shall provide nutrients and calories for each resident based upon substantial compliance with current recommended dietary allowances of the Food and Nutrition Board of National Academy of Sciences, National Research Council, or as

specified in this rule, except as ordered by a physician.

10.2.4. Each resident shall be provided with the amount of food and fluid on a daily basis necessary to maintain his or her appropriate minimum average weight.

~~10.2.5. Each meal shall provide one-third (1/3) of the daily nutritional requirements of residents.~~

~~10.2.6~~ 10.2.5. Breakfast shall consist of at least one (1) item from each of the following categories:

~~10.2.6-1~~ 10.2.5.a. Fruit or juice;

~~10.2.6-2~~ 10.2.5.b. Cereal, whole grain or enriched bread product; and

~~10.2.6-3~~ 10.2.5.c. Grade A vitamin D milk.

~~10.2.7~~ 10.2.6. Noon and evening meals shall consist of at least one (1) item from each of the following categories:

~~10.2.7-1~~ 10.2.6.a. Protein sources, such as meat, poultry, fish, eggs, cooked dried legumes, cheese or peanut butter;

~~10.2.7-2~~ 10.2.6.b. Vegetable or fruit;

~~10.2.7-3~~ 10.2.6.c. Whole grain or enriched grain food products; and

~~10.2.7-4~~ 10.2.6.d. Grade A vitamin D milk.

~~10.2.8~~ 10.2.7. Minimum quantities and types of food necessary to meet minimum daily requirements for nutrients and fluid are as follows:

~~10.2.8-1~~ 10.2.7.a. Meat group: ~~two (2) two-ounce servings~~ six (6) ounces of lean meat, fish, poultry, eggs, or cheese daily. Cooked dried beans, or other legumes such as peanut butter may be substituted. Eggs shall be served at least ~~two (2)~~ three (3) times a week;

~~10.2.8-2~~ 10.2.7.b. Dairy: two (2) or more eight-ounce cups of milk or its equivalent such as equivalent amounts of cheese, cottage cheese, or yogurt each day.

~~10.2.8-3~~ 10.2.7.c. Vegetables: two (2) or more servings each day. Orange or dark green colored vegetables or other good sources of vitamin A shall be served at least four (4) times per week;

~~10.2.8-4~~ 10.2.7.d. Fruit: two (2) or more servings each day, at least one (1) of which shall be a citrus fruit or other

good source of vitamin C;

~~10-2-8-5~~ 10.2.7.e. Whole grain or enriched bread and cereal products: one (1) or more servings each meal with at least four (4) servings each day;

~~10-2-8-6~~ 10.2.7.f. Fiber: at least one (1) fiber-rich food (fruit, vegetable, legume or whole grain product) at each meal;

~~10-2-8-7~~ 10.2.7.g. Water and other fluids: at least six (6) eight-ounce cups of fluid shall be offered to residents on a daily basis; and

~~10-2-8-8~~ 10.2.7.h. Other: other foods to round out meals and snacks to provide additional calories.

10.3. Food Service Sanitation. (Class II)

10.3.1. A residential board and care home may utilize a family-type kitchen.

10.3.2. The kitchen shall provide sufficient space to carry out proper food preparation and dishwashing operations.

10.3.3. Food shall be protected from contamination during storage, preparation and service.

10.3.4. Food contact utensils and equipment shall be of approved material and easily cleanable construction and shall be kept in good repair.

10.3.5. Refrigeration equipment shall be provided to assure the maintenance of potentially hazardous food at or below forty-five degrees Fahrenheit (45° F).

10.3.6. Dishwashing facilities and methods shall be employed to effectively remove food soil and soaps or detergents from dishes, utensils and equipment used in food storage, preparation and service.

10.3.7. If a dishwasher is not used, dishes, equipment and utensils shall first be washed, next rinsed, and then sanitized according to Section 10.3.8 of this rule. Towel drying of dishes, equipment and utensils is not permitted.

10.3.8. The food contact surfaces of all dishes, equipment and utensils not washed in a dishwasher shall be sanitized by one (1) of the following methods:

10.3.8.a. Immersion for at least one-half (1/2) minute in clean, hot water of a temperature of at least one hundred seventy degrees Fahrenheit (170° F);

10.3.8.b. Immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite (household bleach or the equivalent) and having a temperature of at least seventy-five degrees Fahrenheit (75° F);

10.3.8.c. Any other method that will provide the equivalent bactericidal effect.

10.3.9. Cleaned dishes, utensils and equipment shall be stored in a clean dry area protected from contamination.

10.3.10. Foods shall be from approved sources. The use of home-canned foods is prohibited.

10.3.11. Dishes for clients affected with communicable diseases shall be disposable or cleaned and stored separately.

10.4. Reports, Menus, and Diet Manual. (Class III)

10.4.1. Current inspection reports shall be on file in the residential board and care home.

10.4.2. The residential board and care home shall prepare written menus in compliance with the requirements of Section 10.2 of this rule.

10.4.3. The current week's menu shall be available for review upon request.

10.4.4. Menu content shall be varied.

10.4.5. All menus, menu changes, and grocery receipts shall be kept on file for at least thirty (30) days.

10.4.6. Modified diets, as recommended by the physician, shall be prepared according to written instructions obtained from the resident's physician or hospital dietitian.

§64-65-11. Physical Requirements.

11.1. Life Safety and Construction. (Class I)

11.1.1. The secretary may waive certain construction requirements for existing residential board and care homes: Provided, That the waiver shall not compromise the health, safety or well-being of the residents.

11.1.2. The residential board and care home is required to comply with the State building code promulgated in W. Va. Admin-

Administrative Rules, 87 CSR 4, Building Code.<sup>1</sup>

11.1.3. All residential board and care homes shall provide for accessibility for individuals with a physical disability. This shall include at least the entirety of the main floor, including the living rooms, kitchen and dining areas and at least a portion of bedroom and bathroom space. Existing facilities have until the first day of January, one thousand nine hundred and ninety-six (January 1, 1996), to comply with this requirement.

~~11.1.3~~ 11.1.4. The residential board and care home shall provide evidence of compliance with applicable rules of the State fire commission.

~~11.1.4~~ 11.1.5. The secretary shall not license trailers (mobile homes) as residential board and care homes.

11.2. General Requirements. (Class I)

11.2.1. The residential board and care home shall have a water supply which:

11.2.1.a. Is from a public water supply which complies with applicable State and federal rules and regulations; or

11.2.1.b. Meets applicable State standards regarding water quality and the contamination of water for water from any source other than a public utility.

11.2.2. Sewage disposal is required to be in accordance with applicable State rules.

11.2.3. The residential board and care home shall have electric power.

11.2.4. Residential board and care homes shall be located in residential areas.

11.3. Environmental Requirements. (Class II)

11.3.1. The exterior of the residential board and care home, including the yards and grounds and any structures, build-

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<sup>1</sup>Available from the State Fire Commission or the Secretary of State. Section 4 of the above referenced Building Code rule incorporates by reference the BOCA National Building Code; BOCA National Plumbing Code; BOCA National Mechanical Code; BOCA National Existing Structures Code; BOCA National Energy Conservation and CABO One- and Two-Family Dwelling Code. You may purchase these books, collectively or separately, from Building Officials and Code Administrators International, 4051 West Flossmoor Road, Contra Club Hills, Illinois 60477-5795, 1-312-700-2300 or BOCA International Regional Offices, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43229, 1-614-890-1064 or view a set at the Secretary of State's Office.

ings and outside equipment, and the interior of the home, including its furnishings and equipment, shall be maintained in good repair and in a clean, safe, and sanitary condition.

11.3.2. The residential board and care home shall be kept substantially free of insects, rodents and vermin.

11.3.3. Pesticides shall be applied in a manner to prevent contamination of food and hazards to residents.

11.3.4. All garbage and refuse shall be stored in durable, leak-proof, non-absorbent, insect- and rodent-proof containers. The containers shall be kept clean and free of accumulations of residue. Dumpsters in good repair are acceptable.

11.3.5. Solid waste, including garbage and refuse, shall be removed from the building daily and the premises weekly, or more often if necessary.

11.3.6. When approved municipal or private solid waste disposal service is not available, the home shall dispose of solid waste in accordance with the applicable provisions of State law and regulations.

11.3.7. The residential board and care home shall have sufficient supplies and equipment to permit frequent cleaning of floors, walls, woodwork, windows, and screens, and to facilitate all building and ground maintenance.

11.3.8. Locked storage facilities shall be provided for all toxic materials separate from any food and drug storage.

11.3.9. Walls, ceilings and floors shall be in good repair.

11.4. Interior Comfort and Safety. (Class II)

11.4.1. The home shall have hot and cold running water adequate to meet the needs of the residents and employees.

11.4.2. Hot water temperature shall not be higher than one hundred and ten degrees Fahrenheit (110° F) at plumbing fixtures used by residents.

11.4.3. Kitchen facilities shall be designed and located to permit efficient food preparation, serving, utensil cleaning, and refuse disposal.

11.4.4. Hand washing lavatories shall be provided in the food preparation area for employees.

11.4.5. In addition to the kitchen, there shall be at least fifteen (15) square feet per resident of common living area for social, leisure and recreation activities other than bedrooms, bathrooms, hallways and closets. Common areas shall not be used

in ways which infringe on the rights of access of others, and shall not be used as sleeping areas.

11.4.6. Temperature shall be maintained at a level comfortable to the residents.

11.4.6.a. The home shall have a central heating system or incremental units capable of maintaining a temperature in rooms used by residents of at least seventy-two degrees Fahrenheit (72° F) during cold weather. Individual room units known as "through the wall heating/cooling units" which are approved by U.L. Inc. may be acceptable. Space heaters are not permissible. Heat shall be supplied to all rooms used by residents.

11.4.6.b. Cooling devices or systems shall be provided for the use of residents when inside temperatures exceed eighty degrees Fahrenheit (80° F). Acceptable cooling devices include, but are not limited to: air conditioners, heat pumps and electric fans. Portable and mounted electric fans shall be screened, constructed and placed in a manner which maximizes resident safety and minimizes drafts.

11.4.7. Doors and windows used for ventilation shall be screened. Screen doors and windows shall not swing inward.

~~11.4.8. All ceilings in habitable areas, including, but not limited to, bedrooms, dining rooms, living rooms, recreation rooms and dens, shall be at least seven feet ten inches (7'10") in height.~~

#### 11.5. Bedrooms. (Class II)

11.5.1. Bedrooms shall provide no less than eighty (80) square feet of space for single occupancy rooms and no less than sixty (60) square feet for each resident of a multiple occupancy room. This shall not include closet or bathroom space.

11.5.2. No bedroom shall be occupied by more than three (3) residents. Residents shall not share bedrooms with the administrator, staff or persons residing in the home who are not residents as defined in this rule.

11.5.3. In single occupancy bedrooms, there shall be at least eight (8) square feet of window area, and in multiple occupancy bedrooms, there shall be at least six (6) square feet of window per bed.

11.5.4. Each bedroom shall have at least one (1) light controlled by a switch at the door to the room.

11.5.5. Basements shall not be used as bedrooms for residents.

11.5.6. Beds shall be placed only in areas commonly used as a bedroom.

11.5.7. Each resident shall be provided with a bed that is at least thirty-six inches (36") in width.

11.5.8. Each bed shall be provided with a substantial, clean and comfortable mattress which fits the bed. Each bed shall have a clean, comfortable pillow of at least average size, with a pillow case. There shall be a protective cover and a top and bottom sheet on the mattress.

11.5.9. Bed coverings shall be available to keep residents comfortable. This shall include at a minimum a quilt, comforter or blanket.

11.5.10. Clean and freshly laundered bed linens shall be provided for each resident at least once each week and more often, if needed.

11.5.11. Windows shall have curtains, shades or blinds which may be opened and closed.

11.5.12. Each resident of each bedroom shall be provided with:

11.5.12.a. A bedside table, chest or its equivalent accessible to the bed, with drawers for the storage of personal items;

11.5.12.b. A bed lamp or bedside light suitable for reading and accessible to the bed; and

11.5.12.c. A comfortable chair of sturdy construction suitable for resident use.

11.5.13. A mirror suitable for full-length viewing shall be provided in bedrooms or other suitable area.

#### 11.6. Toilet and Bathing Facilities. (Class II)

11.6.1. Each resident shall have access to a toilet-washroom without entering another bedroom. No more than six (6) residents shall share a single toilet-washroom. Toilet-washrooms used by residents may be shared by the administrator, staff and persons residing in the home who do not meet the definition of resident found in this rule: Provided however, That residents shall not be required to share a toilet-washroom with more than a total of six (6) individuals.

11.6.2. There shall be at least one (1) bathing facility for each eight (8) residents and at least one (1) per floor on which resident rooms are located. Bathing facilities used by residents may be shared by the administrator, staff and persons

residing in the home who do not meet the definition of resident found in this rule: Provided however, That residents shall not be required to share bathing facilities with more than eight (8) individuals.

11.6.3. Bathing facilities shall have at least one (1) shower or bathtub with non-slip surfaces or mats and grab-bars for each shower or tub provided.

11.6.4. Each toilet-washroom shall have:

11.6.4.a. At least one (1) handwashing sink;

11.6.4.b. At least one (1) toilet; and

11.6.4.c. Grab-bars for each toilet.

11.6.5. Locks on bath and toilet facility doors and the doors to rooms housing these facilities shall be easily opened or removed from the outside in the event of an emergency.

11.6.6. Toilet-washrooms shall be supplied with soap, toilet tissue, and towels or a blow dryer for hands. The shared use of towels is prohibited.

11.6.7. Clean towels and wash cloths shall be provided to the resident at least twice weekly, and more often if needed.

11.6.8. Bathtubs, shower stalls and handwashing facilities shall not be used for storage or for laundering soiled linens.

#### 11.7. Laundry. (Class II)

11.7.1. Residential board and care homes which do their own laundry shall have a separate area or room designed for use as a laundry, including space for sorting soiled and clean linen and clothing. No laundry shall be done in a food preparation or dishwashing area.

11.7.2. Washing machines shall be installed so that no back-siphonage possibility exists.

11.7.3. Electric or gas clothes dryers shall be vented to the outside.

11.7.4. The residential board and care home shall provide laundry facilities or services for residents' personal laundry. Residents' soiled personal laundry shall be stored and laundered separately from other residents' laundry. Laundry services may be provided by an outside laundry service.

11.7.5. Table and kitchen linens shall be laundered separately from other washable goods.

11.7.6. Sanitizing agents shall be used when laundering kitchen, bath and bed linens.

~~11.7.6~~ 11.7.7. Soiled and clean laundry shall not be stored together at any time.

§64-14-12. Additional Requirements Related to the Provision of Limited and Intermittent Nursing or Maximum Personal Assistance.<sup>2</sup>

12.1. Limited and Intermittent Nursing Services (Class I)

12.1.1. A residential board and care home which wishes to provide limited and intermittent nursing care and services which exceed personal assistance shall arrange for a registered nurse who has agreed, in writing, to assume responsibility for the oversight of care and services required by this rule to all residents of the residential board and care home inclusive of the following;

12.1.1.a. The registered professional nurse shall provide oversight of the care and services through visits to the residents at least five (5) times a week. Visits shall be of sufficient duration to perform all required duties;

12.1.1.b. The registered professional nurse shall be on call at all times or the residential board and care home shall arrange for like relief coverage by another registered nurse to assure that the care and needs of the residents are satisfactorily met.

12.1.1.c. The residential board and care home shall make arrangements for a registered nurse to manage and provide nursing services for all residents of the residential board and care home as specified in this rule. Arrangements for nursing services for individual residents may be made by contract with an individual, a nursing service, or a home health agency, or the registered nurse may be an employee or the administrator of the residential board and care home. Arrangements with a home health agency do not satisfy requirements for nursing management oversight of all residents of this rule but may be used to satisfy the requirements for services to individual residents. The registered nurse shall sign a written agreement specifying all services the registered nurse agrees to provide;

12.1.1.d. The registered professional nurse shall provide direct supervision of the limited and intermittent nursing services provided by ensuring that the services established within

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<sup>2</sup> The provisions of this section apply to personal care homes providing limited and intermittent nursing or maximum personal assistance as stated in Section 4.1.3 of this rule.

the resident's plan of care are met;

12.1.1.e. The residential board and care home shall implement, within reasonable expectation, the recommendations of the registered nurse regarding care, services and staff training intended to protect the residents;

12.1.1.f. The residential board and care home shall provide written notice to each resident regarding the availability of nursing services at the time of admission, or, for current residents, within seven (7) days of the implementation of the nursing service;

12.1.1.g. Residents who are unable to recognize danger or walk independently shall reside only on the first floor of a multi-level residential board and care home.

12.1.2. The registered nurse shall:

12.1.2.a. Complete a written nursing assessment for each resident within twenty-four (24) hours following admission, and annually thereafter, or at the time of any significant temporary or permanent change in the resident's condition.

12.1.2.b. Coordinate the development of a written plan of care with the resident and the attending physician or other licensed health care professional authorized to develop such plans of care by applicable State laws and rules, which shall be signed and dated by the attending physician or other licensed health care provider. This plan of care shall be completed within seven (7) days after admission and shall be reviewed by the registered nurse at least every six (6) months or at the time of a significant temporary or permanent change in condition;

12.1.2.c. Assure that the plan of care is implemented and that the resident's physical, mental and social well-being are not compromised;

12.1.2.d. Assure that treatment involving medical management of a resident is carried out only in accordance with an order from a physician or other licensed health care provider authorized by State law and rules to issue the order, and that the order with the physician's or other licensed health care provider's signature is placed in the resident's care record;

12.1.2.e. Assure that all verbal orders are recorded in the resident's care record, signed by the registered nurse, and countersigned by the physician or other licensed health care provider who issued the order;

12.1.2.f. Assure that all physician's orders specify the type, frequency, duration, and dosage for each medication, treatment or special feeding;

12.1.2.g. Assure that treatment measures are performed only by qualified staff;

12.1.2.h. Assure that sterile procedures and treatments are performed only by a licensed registered or practical nurse;

12.1.2.i. Report suspected abuse, neglect, or misappropriation of personal funds or property to the State licensure and certification agency, the State commission on aging, and the State adult protective services agency. The secretary may report an alleged failure to report to the West Virginia board of examiners for registered nurses. This requirement does not relieve the residential board and care home administrator, owner, staff or any other individual of any responsibilities for reporting abuse or neglect of a resident or misappropriation of a resident's funds or property;

12.1.2.j. Maintain records of each visit;

12.1.2.k. Evaluate each resident's functional capabilities to assure that each joint is maintained with an optimal range of motion;

12.1.2.l. Evaluate each resident's medication administration in accordance with the physician's orders, and report adverse signs or symptoms related to medications to the physician immediately;

12.1.2.m. If physical or chemical restraints are used, evaluate and recommend to the resident's physician alternatives to maintain the resident at an optimum level of functioning;

12.1.2.n. Review training needs of residential board and care home staff members;

12.1.2.o. Provide needed training or recommend to the residential board and care home appropriate training for staff;

12.1.2.p. Provide to the residential board and care home a written record of training provided by the registered nurse to individuals or groups with an outline of items discussed, date, time of the session, and signature of individual(s) involved in the training;

12.1.2.q. Participate with the administrator in the hiring of care givers, including verification that the care giver is not on the nurse aide abuse registry maintained by the State licensure and certification agency;

12.1.2.r. Recommend, in writing, the addition of care givers necessary to meet the needs of residents; and

12.1.2.s. Evaluate alterations in the physical, mental and

social well-being of residents as potential cases of abuse or neglect.

12.1.3. The registered nurse shall keep a general record which shall include at least:

12.1.3.a. The date, time in and time out for each visit (unless the registered professional nurse is employed by the residential board and care home at least thirty-five (35) hours per week);

12.1.3.b. A list of duties performed by the registered nurse during each visit;

12.1.3.c. A brief statement regarding identified concerns and recommended actions taken to resolve them;

12.1.3.d. A weekly evaluation of each resident for any signs of alteration in skin integrity; and

12.1.3.e. Initials for each entry and a complete signature of the registered nurse at the bottom of each page of the record.

12.1.4. The registered nurse shall enter statements regarding the following into each resident's individual case record;

12.1.4.a. The presence or absence of bruises, discoloration, redness, skin turgor;

12.1.4.b. The specific location of any change in skin color, turgor or integrity and a detailed description for each area noted, including the size of the area in centimeters, its appearance, the presence or absence of drainage, its color and a plan of treatment; and

12.1.4.c. An evaluation of weekly food and fluid intake, any changes in eating patterns, and any actions needed and taken as a result.

## 12.2. Personnel and Staffing (Class III)

12.2.1. The Administrator shall have at least one year of experience in caring for adults with mental or physical impairments.

12.2.2. Any individual designated as the assistant administrator shall meet the requirements established for administrators in Sections 6 and 14 of this rule.

12.2.3. The administrator or assistant administrator shall demonstrate knowledge, skills and abilities in the administration and management of a residential board and care home serving individuals with mental or physical disabilities as appropriate to

the population in care, including:

12.2.3.a. Knowledge and understanding of mentally impaired or physically impaired individuals;

12.2.3.b. Ability to plan and implement the program; and

12.2.3.c. Knowledge of financial management sufficient to ensure program development and continuity.

12.2.4. The administrator and assistant administrator shall annually attend at least twenty (20) hours of training related to management or operation of a residential board and care home specific to the population in care. Documentation of training attendance and content shall be maintained in their personnel files.

12.2.5. Residential care and residential support staff shall attend at least eight (8) hours of training annually specific to the population in care at the residential board and care home. Documentation of the training shall be maintained in the employee's personnel file. Examples of content areas of training which focus on the resident who is mentally or physically impaired may include but not be limited to:

12.2.5.a. Medications and side effects;

12.2.5.b. Signs and symptoms of substance abuse;

12.2.5.c. Mental illness and mental retardation;

12.2.5.d. Crisis intervention;

12.2.5.e. Aging processes;

12.2.5.f. Behavior management;

12.2.5.g. Resident care techniques;

12.2.5.h. Interpersonal skills;

12.2.5.i. Promoting socialization and independence;

12.2.5.j. Death and dying;

12.2.5.k. Nutrition and therapeutic diets;

12.2.5.l. Restorative care;

12.2.5.m. Habilitation and/or rehabilitation;

12.2.5.n. Use of assistive or prosthetic devices;

12.2.5.o. range of motion, transfer and positioning;

12.2.5.p. Emergency interventions when the residents are out of the residential board and care home.

12.3. Resident Care and Related Services (Class III)

12.3.1. The residential board and care home shall assure that all of the resident's identified needs are met utilizing a multi-disciplinary approach within a comprehensive service plan. The resident's comprehensive service plan shall be maintained in one (1) document that clearly identifies the interventions to be provided, the frequency and duration of each intervention, and the level of staff necessary to carry out the intervention.

12.3.2. The administrator shall designate an employee to be responsible for monitoring and maintaining the comprehensive service plan on an ongoing basis.

12.3.3. The residential board and care home shall review all comprehensive service plans at least annually or as changes in the resident's needs warrant review and updating. In the review of the plan, the residential board and care home shall document the results of the established interventions and care.

12.3.4. The residential board and care home shall assure that all of the individuals' time limited needs identified on the comprehensive individualized service plan are met.

12.3.5. The residential board and care home shall obtain progress reports from outside service providers at least every six (6) months until it is stated in a report that services are no longer needed.

12.3.6. The progress reports shall contain at a minimum:

12.3.6.a. A statement that continued services are/are not needed;

12.3.6.b. Recommendations, if any, for continued services;

12.3.6.c. The individual's response to the service being provided.

12.3.7. Copies of the progress reports shall be retained in the resident's record.

~~§64-65-12.~~ §64-65-13. Penalties.

~~12-4-~~ 13.1. The secretary shall administer penalties for violations of this rule and of W. Va. Code §§16-5C-1 et seq. and 16-5H-1 et seq. as specified in W. Va. Code §§16-5C-1 et seq., 16-5H-1 et seq., and this rule.

~~12-2-~~ 13.2. In addition to all other actions and penalties specified in law or this rule, the secretary shall have the authority to ban new admissions by order until further notice by the secretary or reduce the bed capacity of the home or both, when on the basis of inspection he or she makes the following findings:

~~12-2-1-~~ 13.2.1. That the licensee has not provided adequate care as indicated by any of the following conditions:

13.2.1.a. An F rating in one (1) or more of Sections five (\$64-65-5) through twelve (\$64-65-12), as applicable, of this rule;

13.2.1.b. An immediate and serious threat;

13.2.1.c. Poor care outcomes resulting in an avoidable decline in a resident's condition; or

13.2.1.d. A decline in a resident's functional abilities resulting from neglect or abuse; and

~~12-2-2-~~ 13.2.2. That an admission ban or reduction in bed capacity or both would place the home in a position to render adequate care.

~~12-2-3-~~ 13.3. The secretary shall notify a licensee of an admissions ban or reduction in bed capacity or both, stating the terms of the order, the reasons thereof and the date set for compliance.

~~12-3~~ 13.4. In addition to all other actions and penalties specified by law and this rule, the secretary has the authority to revoke a license which has been obtained through the use of fraud or subterfuge.

~~§64-65-13-~~ §64-65-14. Administrative Due Process.

Administrative due process and remedies for actions taken under this rule and W. Va. Code §§16-5C-1 et seq. and 16-5H-1 et seq. are as provided in this rule, in said articles of the West Virginia Code, and in Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

~~§64-65-14-~~ §64-65-15. Severability.

The provisions of this rule are severable. If any portion of this rule is held invalid, the remaining provisions remain in effect.

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Table 64-65.1. Scores for A, B, C, And F Ratings in Each Category, Average Rating and Overall Rating

Sec. No.	CATEGORY	POINT VALUE SCORE	RATING	RATING SCORE <sup>3</sup>	RATING			
					F <sup>4</sup>	C	B	A
5	Administration				≤28	29-36	37-45	46-52
6	Resident Care Employees				≤27	28-35	36-44	45-51
7	Resident Rights				≤79	80-88	89-99	100-112
8	General Health and Safety				≤16	17-20	21-24	25-30
9	Resident Services & Recreational Activ.				≤21	22-25	26-31	32-37
10	Dietetic Service				≤19	20-33	24-29	30-36
11	Physical Requirements				≤37	38-44	45-54	55-65
12	Additional Requirements ...				≤12	13-16	17-21	22-26

Average Rating Score	Rating
3.6 - 4.0	A
2.6 - 3.59	B
2.0 - 2.59	C
1.99 or less or zero in any category	F

Total Rating Score \_\_\_\_\_

Average Rating Score \_\_\_\_\_

Final Rating \_\_\_\_\_

<sup>3</sup> Rating score values are:

- A = 4
- B = 3
- C = 2
- F = 0

<sup>4</sup> ≤ = Less than or equal to

Table 64-65.2. Minimum Staffing Levels

AVERAGE CASE MIX WEIGHT	REQUIRED STAFF HOURS PER RESIDENT PER DAY
1.0 - 1.5	.25 hours
1.6 - 2.0	.33 hours
2.1 - 2.5	.50 hours
2.6 - 3.0	.66 hours
3.2 - 3.5	.75 hours
3.6 +	1.10 hours

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Table 64-65.3. Surety Bond Schedule.

SURETY BOND RATE SCHEDULE			
AVERAGE MONTHLY BALANCE OF RESIDENT FUNDS			AMOUNT REQUIRED FOR SURETY BOND
\$1.00	to	\$2,000.00	\$2,500.00
\$2,001.00	to	\$2,100.00	\$2,625.00
\$2,101.00	to	\$2,200.00	\$2,750.00
\$2,201.00	to	\$2,300.00	\$2,875.00
\$2,301.00	to	\$2,400.00	\$3,000.00
\$2,401.00	to	\$2,500.00	\$3,125.00
\$2,501.00	to	\$2,600.00	\$3,250.00
\$2,601.00	to	\$2,700.00	\$3,375.00
\$2,701.00	to	\$2,800.00	\$3,500.00
\$2,801.00	to	\$2,900.00	\$3,625.00
\$2,901.00	to	\$3,000.00	\$3,750.00
\$3,001.00	to	\$3,100.00	\$3,875.00
\$3,101.00	to	\$3,200.00	\$4,000.00
\$3,201.00	to	\$3,300.00	\$4,125.00
\$3,301.00	to	\$3,400.00	\$4,250.00
\$3,401.00	to	\$3,500.00	\$4,375.00
\$3,501.00	to	\$3,600.00	\$4,500.00
\$3,601.00	to	\$3,700.00	\$4,625.00
\$3,701.00	to	\$3,800.00	\$4,750.00
\$3,801.00	to	\$3,900.00	\$4,875.00
\$3,901.00	to	\$4,000.00	\$5,000.00
\$4,001.00	to	\$4,100.00	\$5,125.00
\$4,101.00	to	\$4,200.00	\$5,250.00
\$4,201.00	to	\$4,300.00	\$5,375.00
\$4,301.00	to	\$4,400.00	\$5,500.00
\$4,401.00	to	\$4,500.00	\$5,625.00
\$4,501.00	to	\$4,600.00	\$5,750.00

SURETY BOND RATE SCHEDULE			
AVERAGE MONTHLY BALANCE OF RESIDENT FUNDS			AMOUNT REQUIRED FOR SURETY BOND
\$1.00	to	\$2,000.00	\$2,500.00
\$2,001.00	to	\$2,100.00	\$2,625.00
\$2,101.00	to	\$2,200.00	\$2,750.00
\$2,201.00	to	\$2,300.00	\$2,875.00
\$2,301.00	to	\$2,400.00	\$3,000.00
\$2,401.00	to	\$2,500.00	\$3,125.00
\$4,601.00	to	\$4,700.00	\$5,875.00
\$4,701.00	to	\$4,800.00	\$6,000.00
\$4,801.00	to	\$4,900.00	\$6,125.00
\$4,901.00	to	\$5,000.00	\$6,250.00
\$5,001.00	to	\$5,100.00	\$6,375.00
\$5,101.00	to	\$5,200.00	\$6,500.00
\$5,201.00	to	\$5,300.00	\$6,625.00
\$5,301.00	to	\$5,400.00	\$6,750.00
\$5,401.00	to	\$5,500.00	\$6,875.00
\$5,501.00	to	\$5,600.00	\$7,000.00
\$5,601.00	to	\$5,700.00	\$7,125.00
\$5,701.00	to	\$5,800.00	\$7,250.00
\$5,801.00	to	\$5,900.00	\$7,375.00
\$5,901.00	to	\$6,000.00	\$7,500.00
\$6,001.00	to	\$6,100.00	\$7,625.00
\$6,101.00	to	\$6,200.00	\$7,750.00
\$6,201.00	to	\$6,300.00	\$7,875.00
\$6,301.00	to	\$6,400.00	\$8,000.00
\$6,401.00	to	\$6,500.00	\$8,125.00
\$6,501.00	to	\$6,600.00	\$8,250.00
\$6,601.00	to	\$6,700.00	\$8,375.00
\$6,701.00	to	\$6,800.00	\$8,500.00

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SURETY BOND RATE SCHEDULE			
AVERAGE MONTHLY BALANCE OF RESIDENT FUNDS			AMOUNT REQUIRED FOR SURETY BOND
\$1.00	to	\$2,000.00	\$2,500.00
\$2,001.00	to	\$2,100.00	\$2,625.00
\$2,101.00	to	\$2,200.00	\$2,750.00
\$2,201.00	to	\$2,300.00	\$2,875.00
\$2,301.00	to	\$2,400.00	\$3,000.00
\$2,401.00	to	\$2,500.00	\$3,125.00
\$6,801.00	to	\$6,900.00	\$8,625.00
\$6,901.00	to	\$7,000.00	\$8,750.00
\$7,001.00	to	\$7,100.00	\$8,875.00
\$7,101.00	to	\$7,200.00	\$9,000.00
\$7,201.00	to	\$7,300.00	\$9,125.00
\$7,301.00	to	\$7,400.00	\$9,250.00
\$7,401.00	to	\$7,500.00	\$9,375.00
\$7,501.00	to	\$7,600.00	\$9,500.00
\$7,601.00	to	\$7,700.00	\$9,625.00
\$7,701.00	to	\$7,800.00	\$9,750.00
\$7,801.00	to	\$7,900.00	\$9,875.00
\$7,901.00	to	\$8,000.00	\$10,000.00
\$8,001.00	to	\$8,100.00	\$10,125.00
\$8,101.00	to	\$8,200.00	\$10,250.00
\$8,201.00	to	\$8,300.00	\$10,375.00
\$8,301.00	to	\$8,400.00	\$10,500.00
\$8,401.00	to	\$8,500.00	\$10,625.00
\$8,501.00	to	\$8,600.00	\$10,750.00
\$8,601.00	to	\$8,700.00	\$10,875.00
\$8,701.00	to	\$8,800.00	\$11,000.00
\$8,801.00	to	\$8,900.00	\$11,125.00
\$8,901.00	to	\$9,000.00	\$11,250.00

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SURETY BOND RATE SCHEDULE			
AVERAGE MONTHLY BALANCE OF RESIDENT FUNDS			AMOUNT REQUIRED FOR SURETY BOND
\$1.00	to	\$2,000.00	\$2,500.00
\$2,001.00	to	\$2,100.00	\$2,625.00
\$2,101.00	to	\$2,200.00	\$2,750.00
\$2,201.00	to	\$2,300.00	\$2,875.00
\$2,301.00	to	\$2,400.00	\$3,000.00
\$2,401.00	to	\$2,500.00	\$3,125.00
\$9,001.00	to	\$9,100.00	\$11,375.00
\$9,101.00	to	\$9,200.00	\$11,500.00
\$9,201.00	to	\$9,300.00	\$11,625.00
\$9,301.00	to	\$9,400.00	\$11,750.00
\$9,401.00	to	\$9,500.00	\$11,875.00
\$9,501.00	to	\$9,600.00	\$12,000.00
\$9,601.00	to	\$9,700.00	\$12,125.00
\$9,701.00	to	\$9,800.00	\$12,250.00
\$9,801.00	to	\$9,900.00	\$12,375.00
\$9,901.00	to	\$10,000.00	\$12,500.00
\$10,001.00	or	More	Calculate Amount At 1.25 Times the Pri- or Year's Average Monthly Balance of Client's Funds