

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS

- § 1344(6). [ 1 ] Hospitals and other institutions affected.
- 1344(7). [ 2 ] Existing hospitals and institutions to obtain licenses.
- 1344(8). [ 3 ] Application for licenses.
- 1344(9). [ 4 ] License fees.
- 1344(10). [ 5 ] Inspection.
- 1344(11). [ 6 ] State department of health to issue licenses.
- 1344(12). [ 7 ] Judicial review.
- 1344(13). [ 8 ] State department of health to establish standards.
- 1344(14). [ 9 ] Appointment and term of office of advisory board members.
- 1344(15). [10] Information not to be disclosed except in certain cases.
- 1344(16). [11] Violations; penalties; separability.
- 1344(17). [12] Injunction.

§ 1344(6). [1] **Hospitals and Other Institutions Affected.**—After July one, one thousand nine hundred forty-eight, no person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof shall establish, conduct, or maintain in the State of West Virginia any hospital, sanatorium, rest home, nursing home, or other institution having five or more beds for the hospitalization or care of the sick or injured or for the care of any human being requiring or receiving chronic or convalescent care without first obtaining a license therefor in the manner hereinafter provided. Hospitals operated by the federal government or the state government shall be exempt from the provisions of this article.

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

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

§ 1344(7). [2] **Existing Hospitals and Institutions to Obtain Licenses.**—No person, partnership, association, corporation, or any local governmental

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vision, department, board or agency thereof may continue existing hospital, sanatorium, rest home, nursing home, tution or open a hospital, sanatorium, rest home, nursing ed institution after July one, one thousand nine hundred ss such operation shall have been approved and regularly tate as hereinafter provided.

nse shall be issued under this article, the person applying, l, shall submit evidence satisfactory to the state department he is not less than twenty-one years of age, of reputable and racter, and otherwise qualified. In the event the applicant on, corporation or governmental unit, like evidence shall be o the members thereof and the persons in charge. Every , in addition, submit satisfactory evidence of his ability i the minimum standards and with all rules and regulations lgated hereunder.

[3] **Application for Licenses.**—Any person, partnership, corporation, or any local governmental unit or any division, board or agency thereof desiring a license hereunder shall state department of health a verified application stating the applicant, and if the applicant is an individual, his age; the ution to be operated; the location thereof; the name of charge thereof; and such other information as the state health may require. An application on behalf of a corpora- on or governmental unit shall be made by any two officers its managing agents and shall contain like information. The all be on a form prescribed, prepared and furnished by tment of health.

[4] **License Fees.**—The application of any person, part- iation, corporation or local governmental unit for a license hospital, sanatorium, rest home, nursing home, or related thin the meaning of this article shall be accompanied by determined by the number of beds available for patients, the following schedule of fees: Those with five beds but y beds shall pay a fee of twenty dollars; those with fifty e and less than one hundred beds shall pay a fee of thirty with one hundred beds or more and less than two hundred y a fee of forty dollars; and those with two hundred beds l pay a fee of fifty dollars. No such fee shall be refunded. issued under this article shall expire on the thirtieth day of ug their issuance, shall be on a form prescribed by the state of health, shall not be transferable or assignable, shall be for the premises named in the application, shall be posted uous place on the licensed premises, and may be renewed o year upon application, investigation, and payment of the s in the case of the procurement of an original license. All y the state department of health under the provisions of all be paid into the state treasury general revenue fund.

). [5] **Inspection.**—Every building, institution or establish- ich a license has been issued shall be inspected periodically

by a duly appointed representative of the state department of health under rules and regulations to be promulgated by the department. Inspection reports shall be prepared on forms prescribed by the state department of health. Institutions licensed hereunder shall in no way be exempt from being inspected or licensed under the laws of this State relative to hotels, restaurants, lodging houses, boarding houses and places of refreshment.

§ 1344(11). [6] **State Department of Health to Issue Licenses.**—The state department of health is hereby authorized to issue licenses for the operation of hospitals, sanatoriums, rest homes, nursing homes, or other related institutions as herein defined, which are found to comply with the provisions of this article and with all regulations lawfully promulgated by the department.

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

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

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

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

§ 1344(12). [7] **Judicial Review.**—Any applicant or licensee who is dissatisfied with the decision of the state department of health as a result of the hearing provided in section six [§ 1344(11)] may, within thirty days after receiving notice of the decision, appeal to the circuit court, in term or in vacation, of the county in which the applicant or licensee is located for judicial review of the decision. The court may, if it so desires, refer the matter to a commissioner in chancery for a hearing, with a request that he report to the court his findings of fact together with his recommendation.

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

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act by the department shall be considered as prima facie evidence. The department may thereupon make new findings of fact which shall likewise be considered as prima facie evidence. All evidence in the case shall be held secret until the final order by the court which order shall be made public.

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

[8] **State Department of Health to Establish Standards.**—The department of health shall have the power, with the advice and consent of the advisory board, to establish and enforce such minimum standards, rules and regulations, not in conflict with any provision of law, as it finds necessary, or in the public interest, in order to insure that all institutions required to be licensed under this article shall conform to the minimum standards, rules and regulations, and to insure adequate provisions for the accommodation of patients and the care of the public. In like manner, the department, with the advice and counsel of the advisory board, may from time to time amend, modify or repeal such standards, rules and regulations in such manner as may be deemed in the public interest, but no rule, regulation, or standard shall be adopted or enforced which would have the effect of denying the right of any person to practice as a hospital or other institution required to be licensed under this article solely by reason of the school or system of practice employed therein: Provided, that such school or system of practice is recognized by the laws of this State.

[9] **Appointment and Term of Office of Advisory Board.**—There shall be an advisory board of seven members, all of whom shall be citizens of West Virginia, to assist in the establishment of standards and regulations necessary to carry out the provisions of this article and to serve as consultants to the state board of health. The board shall meet at least twice each year and at the call of the state board of health. The members of the advisory board shall annually elect one of its members to serve as chairman.

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

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

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

§ 1344(15). [10] **Information Not to be Disclosed except in Certain Cases.**—Information received by the state department of health under the provisions of this article shall be confidential and shall not be publicly disclosed except in a proceeding involving the question of the issuance or revocation of a license.

§ 1344(16). [11] **Violations; Penalties; Separability.**—Any person, partnership, association, or corporation, and any local governmental unit or any division, department, board or agency thereof establishing, conducting, managing, or operating a hospital, sanatorium, rest home, nursing home, or institution within the meaning of this article, without first obtaining a license therefor as herein provided, or violating any provision of this article or any rule or regulation lawfully promulgated thereunder, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. For each subsequent offense the fine may be increased to not more than five hundred dollars, with imprisonment in the county jail for a period of not more than ninety days, or both such fine and imprisonment in the discretion of the court. Each day of a continuing violation after conviction shall be considered a separate offense.

§ 1344(17). [12] **Injunction.**—Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the State for injunction against any person, partnership, association, corporation, or any local governmental unit, or any division, department, board or agency thereof to restrain or prevent the establishment, conduct, management or operation of any hospital sanatorium, rest home, nursing home or other institution having five or more beds for the hospitalization or care of the sick or injured or for the care of any human being requiring or receiving chronic or convalescent care without first obtaining a license therefor in the manner hereinbefore provided.

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