

NURSING HOME ADMINISTRATORS LICENSING BOARD

REGULATORY REVIEW

**SUBMITTED TO GOVERNOR JIM JUSTICE
LEGISLATIVE RULE MAKING REVIEW
COMMITTEE**

ROBERTA KAY COTTRILL, CHAIR

DENISE CAMPBELL, SECRETARY

Veronica Cummings, Executive Director

10/16/2018

REGULATORY REVIEW

The Nursing Home Administrators Licensing Board has reviewed the Title 21 Nursing Home Administrators 21CSR1 Rule with the first promulgation of the Rule being May 10, 1974. With modifications over the years up to the most recent 21CSR1 Rule of July 22, 2016, the Board's primary purpose is grounded on federal and state law to protect the public good and our most vulnerable citizens by developing and enforcing regulations to govern the practice of nursing home administration in West Virginia. Also, licensure of nursing homes and nursing home administrators is a requirement for reimbursement of Medicare and Medicaid funding through CMS. The licensure of nursing home administration is unique in that it is one of the only professions under a federal licensure mandate as indicated in Federal Regulation (42 CFR Parts 431.700 to 431.715).

Specifically, areas of 21CSR1 Rule were amended for fee increases to remain solvent and fulfill responsibilities according to statute May 14, 1997. Fee and renewal decreases were added for Emeritus Status administrators to retain knowledge and experience of our most seasoned administrators March 31, 2008. The 21CSR1 Rule has also gone through editing for clarification, added utility and increased harmony on April 5, 1994. Rule changes on April 13, 2012 included mandatory denial of applicants who hold un-reversed felony or misdemeanor convictions relating to the practice of nursing home administration, and FBI fingerprint criminal record checks on applicants. Licensee's on active duty as a member of the Armed Forces of the United States, the National Guard or any other military reserve component, and deployed outside of WV and for six months after discharge from active duty shall have their licenses continued in good standing and shall have their licenses be renewed without payment of renewal fee and without meeting continuing education requirements, when circumstances associated with military duty prevent the licensee from obtaining the required continuing education.

In the July 22, 2016 amendment to the existing rule, the Board made changes to facilitate more applicants being approved to take the examination for licensure. These include reducing the administrator-in-training requirements to become licensed from one year to six months and allowing time served under an emergency permit to be counted toward the administrative experience necessary to take the examinations for licensure. Definitions were added to more clearly define and outline requirements for licensure.

The Nursing Home Administrators Licensing Board submitted a review and evaluation of Federal and State rules and regulations regarding the continuation of 21CSR1 Rule to the Joint Committee on Government and Finance and the Legislative Rule-Making Committee, completed by our committee members, Joan Armbruster and Denise Campbell on October 20, 2017. The document is attached."

This report is respectfully submitted,

Roberta Kay Cottrill, Chairperson
NURSING HOME ADMINISTRATORS LICENSING BOARD

NHALB Review and Evaluation of Federal and State Rules

Federal and State rules and regulations regarding the requirements for licensing of nursing home administrators are very similar. All nursing homes must have a licensed administrator to manage and be responsible for the day to day operation of the facility and each state must have a board to carry out this licensing requirement.

The following delineates similarities and differences between Federal and State rules and regulations with applicable code and rule citations.

1. All nursing homes must be licensed by the Health Department in the state of West Virginia. A requirement of that licensure is the facility must have an administrator licensed by the state who is responsible for the management and day to day operation of the nursing home.

WV Rule 64-13-2.1

2. To be certified for Medicaid participation, a nursing home must be licensed by the state and have an administrator licensed by the state who is responsible for the management of the facility.

Social Security Act Section 1902(a)(29)

42CFR 483.75(d)(2)(i)(ii)

WV Medicaid Nursing Facility Manual 514.5.1

3. Licensing of nursing home administrators shall be carried out by a board of representatives of the professions and institutions concerned with the care of chronically ill and infirm aged patients.

Social Security Act Section 1908(b)

42CFR Subpart N 431.702

WV Medicaid State Plan Amendment 4.25

WV CSR Chapter 30 Article 25

4. The Composition of the licensing board of nursing home administrators is more specific in the West Virginia Code of Regulations than in the Code of Federal Regulations.

42CFR 431.706

WVCSR 30-25-4(d)

5. The Code of West Virginia, Section 30, Article 25 delineates in greater detail the functions and duties of the state Nursing Home Administrators Licensing Board to affect compliance with Federal rules and regulations. The West Virginia Legislature approved an amendment to Nursing Home Administrators Rule Title 21CSR1, effective July 22, 2016.

Social Security Act Section 1908(c)

WVCSR30-25-5 through 30-25-17

21CSR1

6. The Board shall receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any individual licensed as a nursing home administrator has failed to comply with the standards designed to insure that individuals are of good character and qualified to serve as a nursing home administrator.

Social Security Act Section 1908©(5)

42CFR431.707; 431.709(b); 431.712

WVCSR Chapter 30 Article 25-5(10)(11)(12)(13)

WVCSR21-2-4 and 21-2-5

WVNHALB Policy-Substandard Care Deficiencies (Amended)