

## **64-13-1 General**

### **1.1.**

Scope. It is the purpose of this rule to implement state and federal law governing the licensing, operation, and standard of care in nursing homes located in the State of West Virginia. Compliance with this rule will help each resident attain or maintain the highest practicable physical, mental and psychosocial well-being in accordance with a comprehensive assessment and plan of care and prevailing standards of care, and will promote a standard of care that assures that the ability of each resident to perform activities of daily living does not diminish unless the resident's ability is diminished solely as a result of a change in the resident's clinical condition.

### **1.2.**

Authority. W. Va. Code § 16-1-4, § 16-5C-5, and § 16-5C-21(b).

### **1.3.**

Filing Date. April 29, 2021.

### **1.4.**

Effective Date. July 1, 2021.

### **1.5.**

Sunset Provision. This rule will terminate and have no further force or effect upon August 1, 2026.

### **1.6.**

Application. This rule applies to nursing home residents and their legal representatives as well as every individual and every form of organization, whether incorporated or unincorporated, including any partnership, corporation, trust, association, or political subdivision of the state that operates or applies to operate a nursing home as defined in this rule and W. Va. Code §§ 16-5C-1, et seq.

## **1.7.**

Variances From This Rule.1.7.1. The department may grant a variance from any provision of this rule if it determines that:1.7.1.a. Strict compliance would impose a substantial hardship on the licensee; 1.7.1.b. The licensee will otherwise meet the goal of the rule; and 1.7.1.c. A variance will not result in less protection of the health, safety and welfare of the residents. 1.7.2. A variance shall not be granted from a provision pertaining to residents' rights.1.7.2.a. Separate federal variance procedures may apply for provisions of this rule and are contained in the federal nursing home regulations. 1.7.2.b. Requests for variances from West Virginia fire safety and building construction requirements shall be addressed to the appropriate authorities. 1.7.3. A variance shall not be granted from a provision pertaining to a requirement in W. Va. Code et seq.

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#### **1.7.1.a.**

Strict compliance would impose a substantial hardship on the licensee;

#### **1.7.1.b.**

The licensee will otherwise meet the goal of the rule; and

**1.7.1.c.**

A variance will not result in less protection of the health, safety and welfare of the residents.

**1.7.2.**

A variance shall not be granted from a provision pertaining to residents' rights.1.7.2.a.

Separate federal variance procedures may apply for provisions of this rule and are contained in the federal nursing home regulations. 1.7.2.b. Requests for variances from West Virginia fire safety and building construction requirements shall be addressed to the appropriate authorities.

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Separate federal variance procedures may apply for provisions of this rule and are contained in the federal nursing home regulations.

**1.7.2.b.**

Requests for variances from West Virginia fire safety and building construction requirements shall be addressed to the appropriate authorities.

**1.7.3.**

A variance shall not be granted from a provision pertaining to a requirement in W. Va. Code et seq.

**1.8.**

Enforcement. This rule is enforced by the secretary of the Department of Health and Human Resources or his or her lawful designee.