WEST VIRGINIA CODE: §16B-5-2

§16B-5-2. Definitions.

(a) As used in this article, unless a different meaning appears from the context:

"Assisted living residence" means any living facility, residence, or place of accommodation, however named, available for four or more residents, in this state which is advertised, offered, maintained, or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care: Provided, That the care or treatment in a household, whether for compensation or not, of any person related by blood or marriage, within the degree of consanguinity of second cousin to the head of the household, or his or her spouse, may not be deemed to constitute an assisted living residence within the meaning of this article. Nothing contained in this article applies to hospitals, as defined under §16B-3-1 of this code; or state institutions, as defined under §27-1-6 of this code; or residential care homes operated by the federal government or the state; or institutions operated for the treatment and care of alcoholic patients; or offices of physicians; or hotels, boarding homes, or other similar places that furnish to their guests only room and board; or to homes or asylums operated by fraternal orders pursuant to §35-3-1 et seq. of this code;

"Deficiency" means a statement of the rule and the fact that compliance has not been established and the reasons therefor;

"Director" means the Director of the Office of Health Facility Licensure and Certification within the Office of the Inspector General.

"Division" means the Office of Health Facility Licensure and Certification within the Office of the Inspector General;

"Inspector General" means the Inspector General of the Office of Inspector General as described in §16B-2-1 of this code, or his or her designee.

"Limited and intermittent nursing care" means direct hands-on nursing care of an individual who needs no more than two hours of nursing care per day for a period of time no longer than 90 consecutive days per episode: Provided, That such time limitations shall not apply to an individual who, after having established a residence in an assisted living residence, subsequently qualifies for and receives services coordinated by a licensed hospice and such time limitations shall not apply to home health services provided by a Medicare-certified home health agency. Limited and intermittent nursing care may only be provided by or under the supervision of a registered professional nurse and in accordance with rules

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proposed by the Inspector General for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code;

"Nursing care" means those procedures commonly employed in providing for the physical, emotional, and rehabilitational 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, catheterization, 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;

"Office of Health Facility Licensure and Certification" means the West Virginia Office of Health Facility Licensure and Certification within the Office of the Inspector General.

"Person" means an individual and every form of organization, whether incorporated or unincorporated, including any partnership, corporation, trust, association, or political subdivision of the state;

"Personal assistance" means 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;

"Resident" means an individual living in an assisted living residence for the purpose of receiving personal assistance or limited and intermittent nursing services;

"Substantial compliance" means a level of compliance with the rules such that identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

(b) The Inspector General may define in rules any term used herein which is not expressly defined.

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