# WEST VIRGINIA CODE: §16B-9-5

**§16B-9-5. Rules; minimum standards for residential care communities.**

(a) The Inspector General shall propose all rules that may be necessary or proper to implement or effectuate the purposes and intent of this article and to enable the director to exercise the powers and perform the duties conferred herein. All rules authorized or required pursuant to this article shall be proposed by the Inspector General and promulgated in accordance with the provisions governing legislative rules, contained in §29A-3-1 of this code.

(b) The Inspector General shall propose rules establishing minimum standards for the operation of residential care communities, including, but not limited to, the following:

(1) Administrative policies, including: (i) An affirmative statement of the right of access to residential care communities by members of recognized community organizations and community legal services programs whose purposes include rendering assistance without charge to residents, consistent with the right of residents to privacy; and (ii) a statement of the rights and responsibilities of residents;

(2) Minimum numbers and qualifications of residential care community personnel according to the size, classification and health care needs of the residential care community;

(3) Safety requirements, except for those fire and life safety requirements under the jurisdiction of the state Fire Marshal;

(4) Sanitation requirements;

(5) Protective and personal services required to be provided;

(6) Dietary services required to be provided;

(7) Maintenance of health records, including confidentiality;

(8) Social and recreational activities required to be made available;

(9) Physical facilities;

(10) Requirements related to limited and intermittent nursing care;

(11) Visitation privileges governing access to a resident by immediate family or other relatives of the resident and by other persons who are visiting with the consent of the resident; and

(12) Other items or considerations that the director considers appropriate to ensure the

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health, safety and welfare of residents of residential care communities.

(c) The Inspector General shall propose rules that include detailed specifications for each category of standards required under subsections (b) and (d) of this section, and shall classify these standards as follows:

(1) Class I standards, the violation of which presents either an imminent danger to the health, safety, or welfare of a resident or a substantial probability that death or serious physical harm may result;

(2) Class II standards, the violation of which directly implicates the health, safety or welfare of a resident, but which does not present imminent danger thereto; and

(3) Class III standards, the violation of which has an indirect or potential impact on the health, safety, or welfare of any resident.

(d) A residential care community shall attain substantial compliance in every category of standard enumerated in this section in order to be considered as being in substantial compliance with the requirements of this article and the rules promulgated hereunder.

(e) Until such time as the Inspector General proposes rules governing residential care communities under this section, existing rules governing residential board and care homes shall apply to residential care communities and shall be construed so as to conform with the provisions of this article in their application to residential care communities: *Provided,* That to the extent any provisions of the rule governing residential board and care homes conflict with the provisions of this article, the provisions of this article shall govern.

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