WEST VIRGINIA CODE: §16B-9-6

§16B-9-6. License required; application; fees; duration; renewal.

No person may establish, operate, maintain, offer, or advertise a residential care community within this state unless he or she first obtains a license therefor as provided in this article, which license remains unsuspended, unrevoked, and unexpired. No public official or employee may place any person in, or recommend that any person be placed in, or directly or indirectly cause any person to be placed in, any residential care community which is being operated without a valid license from the director. The procedure for obtaining a license is as follows:

(a) The applicant shall submit an application to the director on a form prescribed by the director, containing information as may be necessary to show that the applicant is in compliance with the standards for residential care communities as established by this article and the rules promulgated hereunder. The application and any exhibits thereto shall provide the following information:

(1) The name and address of the applicant;

(2) The name, address, and principal occupation: (i) Of each person who, as a stockholder or otherwise, has a proprietary interest of 10 percent or more in the applicant; (ii) of each officer and director of a corporate applicant; (iii) of each trustee and beneficiary of an applicant which is a trust; and (iv) where a corporation has a proprietary interest of 25 percent or more in an applicant, the name, address, and principal occupation of each officer and director of the corporation;

(3) The name and address of the owner of the premises of the residential care community or proposed residential care community, if different from the applicant, and if so, the name and address: (i) Of each person who, as a stockholder or otherwise, has a proprietary interest of 10 percent or more in the owner of the premises; (ii) of each officer and director of a corporate applicant; (iii) of each trustee and beneficiary of the owner if it is a trust; and (iv) where a corporation has a proprietary interest of 25 percent or more in the owner, the name and address of each officer and director of the corporation;

(4) Where the applicant is the lessee or the assignee of the residential care community or the premises of the proposed residential care community, a signed copy of the lease and any assignment thereof;

(5) The name and address of the residential care community or the premises of the proposed residential care community;

(6) The proposed number of apartments in the residential care community;

WV Legislature

(7) (A) An organizational plan for the residential care community indicating the number of persons employed or to be employed, and the positions and duties of all employees; (B) the name and address of the individual who is to serve as administrator; and (C) evidence of compliance with applicable laws and rules governing zoning, building, safety, fire prevention, and sanitation, as the director may require; and

(8) Additional information as the director may require.

(b) Upon receipt and review of an application for license made pursuant to subdivision (a) of this section and inspection of the applicant pursuant to §16B-9-10 of this code, the director shall issue a license if he or she finds:

(1) That an applicant which is an individual and every partner, trustee, officer, director, and person with a controlling interest of an applicant which is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of a residential care community by virtue of financial capacity, appropriate business or professional experience, a record of compliance with lawful orders of the department (if any) and a history of nonrevocation of a license during the five years immediately preceding the application;

(2) That the residential care community is under the supervision of an administrator qualified for that position by training and experience;

(3) That the residential care community is in substantial compliance with standards established pursuant to section five of this article, and other requirements as the Inspector General may establish by rule under this article.

Any license granted by the director shall state the maximum number of apartments for which it is granted, the date of issuance and the date of expiration. Residential care community licenses shall be issued for a period not to exceed one year: *Provided,* That any license which is unexpired, for which timely application for renewal has been made, together with payment of the proper fee, as required by the provisions of this article and the rules promulgated hereunder, continues in effect until: (i) One year after the original expiration date of the license; (ii) the date that the license is revoked or suspended pursuant to the provisions of this article; or (iii) the date of issuance of a new license, whichever date first occurs. Each license issued is only for the premises and applicant named in the application and may not be transferred or assigned: *Provided, however,* That if the ownership of a residential care community with an unexpired license is transferred, the filing of an application for a license with the director by the new owner shall have the effect of licensing the operation of the residential care community under the new owner for a period not to exceed three months. Every residential care community license shall be displayed in a conspicuous place at the facility for which it is issued so as to be accessible to and in plain view of residents and visitors.

(c) An original license may be renewed upon the timely filing of an application therefor,

WV Legislature

accompanied by the required fee and contingent upon the licensee's submission of evidence satisfactorily demonstrating compliance with the provisions of this article and the rules promulgated hereunder together with the following:

(1) A balance sheet as of the end of the residential care community's fiscal year, setting forth its assets and liabilities as of that date, including all capital, surplus, reserve, depreciation, and similar accounts;

(2) A statement of operations of the residential care community as of the end of its fiscal year, setting forth all revenues, expenses, taxes, extraordinary items and other credits or charges; and

(3) A statement of any changes in the name, address, management, or ownership information on file with the director.

(d) In the case of an application for license renewal, if all the requirements of section five of this article are not met, the director may issue a provisional license, provided that care given in the residential care community is adequate for resident needs and the residential care community has demonstrated improvement and evidences potential for substantial compliance during the term of the provisional license: *Provided,* That a provisional license is effective for a period not to exceed one year, may not be renewed, and may not be issued to any residential care community with uncorrected violations of any Class I standard, as defined in subsection (c), section five of this article.

(e) A nonrefundable application fee in the amount of $75 for an original residential care community license shall be paid at the time an application for license is made. The average cost of all direct costs for initial licensure inspections of all residential care communities for the preceding year shall be assessed against and paid by the applicant to the director before an initial or amended license may be issued. The fee for license renewal shall be computed at the rate of $4 per apartment in the community per year: *Provided,* That the rate per apartment may be assessed against applicants for whom a license is issued for a period of less than one year. The director may annually adjust licensure fees for inflation, based upon the consumer price index. All license fees are due and payable to the director, annually, in the manner set forth in the rules promulgated hereunder. The director shall retain each application and licensure fee pending final action on the application. All fees received by the director under the provisions of this article shall be deposited in accordance with §16B-1-13 of this code.

WV Legislature