WEST VIRGINIA CODE: §16b-4-6

§16B-4-6. License required; application; fees; duration; renewal.

No person may establish, operate, maintain, offer, or advertise a nursing home within this state unless and until he or she obtains a valid license therefor as hereinafter provided, 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 nursing home, as defined in §16B-4-2 of this code, which is being operated without a valid license from the Inspector General. The procedure for obtaining a license is as follows:

(a) The applicant shall submit an application to the director on a form to be prescribed by the director, containing such information as may be necessary to show that the applicant is in compliance with the standards for nursing homes, as established by this article and the rules lawfully 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:

(A) Of each person who, as a stockholder or otherwise, has a proprietary interest of 10 percent or more in the applicant;

(B) Of each officer and director of a corporate applicant;

(C) Of each trustee and beneficiary of an applicant which is a trust; and

(D) 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 nursing home or proposed nursing home, if he or she is a different person from the applicant, and in such case, the name and address:

(A) Of each person who, as a stockholder or otherwise, has a proprietary interest 10 percent or more in the owner;

(B) Of each officer and director of a corporate applicant; and

(C) Of each trustee and applicant, the name, address, and principal occupation of each officer and director of the corporation;

(4) Where the applicant is the lessee or the assignee of the nursing home or the premises of

WV Legislature

the proposed nursing home, a signed copy of the lease and any assignment thereof;

(5) The name and address of the nursing home or the premises of the proposed nursing home;

(6) A description of the nursing home to be operated;

(7) The bed quota of the nursing home;

(8) An organizational plan for the nursing home indicating the number of persons employed or to be employed and the positions and duties of all employees;

(9) The name and address of the individual who is to serve as administrator;

(10) Such evidence of compliance with applicable laws and rules governing zoning, buildings, safety, fire prevention, and sanitation as the director may require;

(11) A listing of other states in which the applicant owns, operates, or manages a nursing home or long-term care facility; and

(12) Such additional information as the director may require.

(b) Upon receipt and review of an application for license made pursuant to §16B-4-6(a) of this code, and inspection of the applicant nursing home pursuant to §16B-4-9 and §16B-4-10 of this code, the director shall issue a license if he or she finds:

(1) That an individual applicant, and every partner, trustee, officer, director, and controlling person 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 nursing home by virtue of financial capacity, appropriate business or professional experience, a record of compliance with lawful orders of the department, if any, and lack of revocation of a license during the previous five years or consistent poor performance in other states;

(2) That the facility is under the supervision of an administrator who is licensed pursuant to the provisions of §30-25-1 *et seq*. of this code; and

(3) That the facility is in substantial compliance with standards established pursuant to §16B-4-5 of this code, and such other requirements for a license as may be established by rule under this article.

Any license issued by the director shall state the maximum bed capacity for which it is issued, the date the license was issued, and the expiration date. Such licenses shall be issued for a period not to exceed 15 months for nursing homes: *Provided*, That any license in effect for which timely application for renewal, together with payment of the proper fee has been made to the director in conformance with the provisions of this article and the rules issued thereunder, and prior to the expiration date of the license, shall continue in effect until:

WV Legislature

(A) Six months following the expiration date of the license; or

(B) The date of the revocation or suspension of the license pursuant to the provisions of this article; or

(C) The date of issuance of a new license, whichever date first occurs.

Each license shall be issued only for the premises and persons named in the application and is not transferable or assignable: *Provided*, That in the case of the transfer of ownership of a facility with an unexpired license, the application by the proposed new owner shall be filed with the director no later than 30 days before the proposed date of transfer. Upon receipt of proof of the transfer of ownership, the application shall have the effect of a license for three months. The director shall issue or deny a license within three months of the receipt of the proof of the transfer of ownership. Every license shall be posted in a conspicuous place in the nursing home for which it is issued so as to be accessible to and in plain view of all residents of and visitors to the nursing home.

(c) A license is renewable, conditioned upon the licensee filing timely application for the extension of the term of the license accompanied by the fee, and contingent upon evidence of compliance with the provisions of this article and rules promulgated hereunder. Any application for renewal of a license shall include a report by the licensee in such form and containing such information as shall be prescribed by the director, including a statement of any changes in the name, address, management, or ownership information on file with the director. All holders of facility licenses as of the effective date of this article shall include, in the first application for renewal filed thereafter, such information as is required for initial applicants under the provisions of §16B-4-6(a) of this code.

(d) In the case of an application for a renewal license, if all requirements of §16B-4-6 of this code are not met, the director may at his or her discretion issue a provisional license, provided that care given in the nursing home is adequate for resident needs and the nursing home has demonstrated improvement and evidences potential for substantial compliance within the term of the license: *Provided*, That a provisional license may not be issued for a period greater than six months, may not be renewed, and may not be issued to any nursing home that is a poor performer.

(e) A nonrefundable application fee in the amount of $200 for an original nursing home license shall be paid at the time application is made for the license. Direct costs of initial licensure inspections or inspections for changes in licensed bed capacity shall be borne by the applicant and shall be received by the director prior to the issuance of an initial or amended license. The license fee for renewal of a license shall be at the rate of $15 per bed per year for nursing homes, except the annual rate per bed may be assessed for licenses issued for less than 15 months. Annually, the director may adjust the licensure fees for inflation based upon the increase in the consumer price index during the last 12 months. All such license fees shall be due and payable to the director, annually, and in the manner set forth in the rules promulgated hereunder. The fee and application shall be submitted to the

WV Legislature

director who shall retain both the application and 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 §16-1-13 of this code.

WV Legislature