WEST VIRGINIA CODE: §16b-9-2

§16B-9-2. Definitions.

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

(1) "Capable of self-preservation" means that a person is, at a minimum, physically capable of removing himself or herself from situations involving imminent danger such as fire;

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

(3) "Director" means the director of the Office of Health Facility Licensure and Certification, or his or her designee;

(4) "Division" means the Office of Health Facility Licensure and Certification;

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

(6) "Limited and intermittent nursing care" means direct hands-on nursing care of a resident 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, which care may be provided only when the need for it meets these requirements: The resident requests that he or she remain in the residential care community, the resident is advised of the availability of other specialized health care facilities to treat his or her condition, and the need for care results from a medical pathology or the normal aging process. Limited and intermittent nursing care may be provided only by or under the supervision of a registered professional nurse and in accordance with legislative rules.

(7) "Nursing care" means those procedures commonly employed in providing for the physical, emotional and rehabilitation needs of the ill or otherwise incapacitated and which require technical skills and knowledge beyond those that untrained persons possess, including, irrigations, catheterizations, and special procedures that contribute to rehabilitation and administration of medication by any method involving a level of complexity and skill not possessed by untrained persons;

(8) "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.

(9) "Person" means a natural person and every form of organization, whether incorporated or unincorporated, including partnerships, corporations, trusts, associations, and political subdivisions of the state;

(10) "Personal assistance" means services of a personal nature, including help in walking,

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bathing, dressing, toileting, getting in or out of bed, and supervision that is required because of the age or mental impairment of a resident;

(11) "Resident" means an individual who lives in a residential care community for the purpose of receiving personal assistance or limited and intermittent nursing services from the community;

(12) "Residential care community" means any group of 17 or more residential apartments, however named, which are part of a larger independent living community and which are advertised, offered, maintained, or operated by an owner or manager, regardless of consideration or the absence thereof, for the express or implied purpose of providing residential accommodations, personal assistance, and supervision on a monthly basis to 17 or more persons who are or may be dependent upon the services of others by reason of physical or mental impairment or who may require limited and intermittent nursing care but who are capable of self-preservation and are not bedfast. Individuals may not be disqualified for residency solely because they qualify for or receive services coordinated by a licensed hospice. Each apartment in a residential care community shall be at least 300 square feet in size, have doors capable of being locked and contain at least: One bedroom; one kitchenette that includes a sink and a refrigerator; and one full bathroom that includes a bathing area, toilet, and sink. Services utilizing equipment which requires auxiliary electrical power in the event of a power failure may not be used unless the residential care community has a backup power generator. Nothing contained in this article applies to hospitals, as defined under §16B-3-1 of this code, state institutions, as defined under §27-1-6, residential care communities operated as continuing care retirement communities or housing programs operated under rules of the federal department of housing and urban development and/or the office of rural economic development, residential care communities, operated by the federal government or the state government, institutions operated for the treatment and care of alcoholic patients, offices of physicians, hotels, boarding homes or other similar places that furnish only room and board, or to homes or asylums operated by fraternal orders pursuant to §35-3-1 of this code;

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

(b) The Inspector General may by rule define terms pertinent to this article which are not defined.

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