

JANUARY 9

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Monday, January 9, 1995, 11:00 a.m. - 12:00 Noon

Senate Finance Committee Room - M-451

- 1. Approval of Minutes - Meeting December 6, 1994**
- 2. Review of Legislative Rules:**
 - a. Environmental Quality Board
Requirements Governing Water Quality Standards**
 - b. Division of Public Safety
Cadet Selection Process**
 - c. Dept. Health and Human Resources
Personal Care Home Licensure**
 - d. Division of Environmental Protection, Office of Air
Quality
To Prevent and Control Air Pollution from Hazardous Waste
Treatment, Storage, or Disposal Facilities**
- 3. Other Business:**
 - Committee Report to Legislature**
 - Sponsorship of Bills**

Monday, January 9, 1995

11:00 a.m. - Noon

Legislative Rule-Making Review Committee
(Code §29A-3-10)

Keith Burdette
ex officio nonvoting member

Robert "Chuck" Chambers,
ex officio nonvoting member

Senate

House

Manchin, Chairman
Grubb, Vice Chairman
Anderson
Boley
Macnaughtan (Absent)
Minard

Gallagher, Chairman
Douglas, Vice Chairman
Riggs
Compton
Faircloth
Linch

The meeting was called to order by Mr. Gallagher, Co-Chairman. He stated that Mr. Larry Linch has been appointed to the Committee to replace Dr. John Huntwork.

The minutes of the December 6, 1994, meeting were approved.

Mr. Gallagher told members of the Committee that counsel had explained the rule proposed by the Environmental Quality Board, Requirements Governing Water Quality Standards, at the Committee's November meeting.

Mr. Faircloth, having voted on the prevailing side, moved that the Committee reconsider its action whereby it approved an amendment to the proposed rule which would change the method of measuring the discharge of pollution in relation to public water intakes. The motion was adopted.

Upon reconsideration, Mr. Anderson's motion that the proposed rule be amended to change the method of measuring the discharge of pollution in relation to public water intakes was rejected.

Mr. Faircloth moved that the proposed rule be approved as modified. The motion was adopted.

Debra Graham, Committee Counsel, reviewed her abstract on the rule proposed by the Division of Public Safety, Cadet Selection Process, and stated that the Division has agreed to technical modifications. Sgt. Steve Cogar of the Division responded to questions from the Committee.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Joe Altizer, Associate Counsel, explained the rule proposed the Department of Health and Human Resources, Personal Care Home Licensure, and stated that the Department has agreed to technical modifications. The Department distributed copies of the proposed modifications and a new fiscal note to the Committee. Sister Sheila Rooney, representing four personal care homes in the Wheeling area, addressed the Committee regarding her concerns relating to Section 7.1.2 of the proposed rule. Following a discussion on this section, the Department told the Committee it would agree to delete this section from the proposed rule as part of its modifications.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by the Division of Environmental Protection, To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, and stated that the Division has agreed to technical modifications. He responded to questions from the Committee. Dale Farley, Chief of the Office of Air Quality, answered questions from the Committee.

Ms. Compton moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer informed the Committee that language from the current legislative rule had been inadvertently dropped in the rule proposed by the Division of Environmental Protection, Hazardous Waste Management Regulations. He stated that the Committee approved the proposed rule as modified at its December meeting. He stated that he thought that the Committee should be aware of the problem and should specifically authorize the Division to include the dropped language in its modified rule.

Mr. Grubb, having voted on the prevailing side, moved that the Committee reconsider its action whereby it approved the proposed rule as modified. The motion was adopted.

Mr. Grubb moved that the proposed rule be modified to include the language from the current legislative rule which was inadvertently dropped from the proposed rule. The motion was adopted.

Mr. Grubb moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Gallagher asked Ms. Graham to explain to the Committee the procedure regarding the Committee's report and bills of authorization. She explained both the report and the bills and also reviewed some proposed statutory changes regarding the rule-making process. Mr. Gallagher and Mr. Manchin instructed the staff to place each Delegates' name on all of the House bills and each

Senators' name on all of the Senate bills unless a Delegate or Senator specifically requests that his or her name not be placed on a specific bill.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: JANUARY 9, 1995

TIME: 11:00-NOON

NAME Present Absent Yeas Nays

Chambers, Robert "Chuck", Speaker

Brian Gallagher, Co-Chair

Riggs, Dale Flint

~~Burk, Robert W., Jr.~~

Faircloth, Larry V.

Douglas, Vickie

Compton, Mary P.

Lynch, Larry

~~Huntwork, John~~

Burdette, Keith, President

Joe Manchin, III Co-Chair

Anderson, Leonard

Grubb, David

Minard, Joseph

Macnaughtan, Don

Boley, Donna

TOTAL

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RE: _____

REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Remed

DATE: 1-9-95

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<u>Please print or write plainly</u>			
Barbara Sisarcick	DHHR - OHFLAC	OHFLAC	
Kay Howard	DHHR - Regulatory Development,	Director	
Nancy Tyler	DHHR - OHFLAC	OHFLAC, Director	
Sr. Sheila Rooney	Wetty Home Whg.	W.V.	✓
Cheryl Jones	Elmhurst - 1228 NAT'L RD	W.V. Ex. Director	
Libby Chaffield		Environmental Quality Bd.	
Andrew Cross	THE HOME FURNISH		
Mike Dorsey	WVDEP	Office of Waste Mgmt	If asked
SGT. STEPHEN COGAR	STATE POLICE, S. CHAS.	DIVISION OF PUBLIC SAFETY	
Dale Farley	CHARLESTON WV	WVDEP - AIR QUALITY	Available if asked for comments

Dist. meeting 1-9-95

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Personal Care Home Rule, 64 CSR 65
Type of Rule: X Legislative Interpretive Procedural
Agency Department of Health and Human Resources
Address Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 344,534	\$ 344,120	\$ 344,120
Personal Services			186,046	195,348	195,348
Current Expense			141,688	68,922	68,922
Repairs and Alterations			0	0	0
Equipment			16,800	0	0
Other			0	0	0
Revenue			\$ 5,991	\$ 5,991	\$ 5,991

2. Explanation of above estimates.

* Currently budgeted funds are \$171,330. The proposed revisions will increase the cost of personal care home licensure by approximately \$173,200. See attachment for details.

3. Objectives of these rules:

This proposed legislative rule is a major redefinition of the general standards and procedures for licensure of personal care homes which are facilities providing accommodations, personal assistance, and nursing care to adults who are dependent upon the services of others by reason of physical or mental impairment. The proposed rule provides for the health, safety and welfare of resident of such personal care homes. This redefinition is mandated by statute and Court Order.

PROPOSED RULE FISCAL NOTE ATTACHMENT
Personal Care Homes, 64 CSR 65

The present fiscal note assumes a full year of operation during Fiscal Year 1995, provided that the Department of Health and Human Resources is awarded a supplemental budget package to cover the increased operating costs resulting from implementation of this rule. Other assumptions are detailed below.

Number of Facilities

Total known personal care facilities	70
Estimated licenses	70

Time Required for Inspections and Administration

The following assumptions were made concerning staff time requirements per facility:

1. Estimated time required per facility (under the revised Rule) for inspection and administrative costs for homes meeting the licensure requirements: 56 hours.
2. Estimated time required per facility (under the revised rule) for inspection, administrative, and probable legal costs for homes which may have a difficult time meeting the licensure requirements: 96 hours.

Revenue Estimates

Fiscal Year 1995

Revenues for Fiscal Year 1995 are based upon an existing 283 personal care home beds at a licensure renewal rate of \$5.25 per bed and an estimated 5 new personal care home inspections each year. Each of those facilities paying an average initial inspection cost of \$838.00. Minuscule revenues would be generated by an initial licensure fee of \$63.00 per facility application.

Initial Inspection Costs	\$838.00	x	5 Homes	\$	4,190
Licensure Application Fees	\$ 63.00	x	5 Homes		315
Renewal Licensure Fees	\$5.25	x	283 Beds		1,486
					=====
			TOTAL ESTIMATED REVENUE	\$	5,991

Estimated Increase Funding Required

1. Fiscal Year 1995

PERSONAL SERVICES:

0.50 FTEs	Assistant Program Administrator	\$ 16,500
1.00 FTEs	Clerical Staff	15,900
1.00 FTEs	Nurse III/IV	33,082
1.00 FTEs	Social Worker	22,000
		=====
3.50 FTEs	TOTAL PERSONAL SERVICES	\$ 87,482

CURRENT EXPENSE:

Fringe Benefits (Personal Services @ 22.1%)	\$ 35,259
PLUS: (Insurance @ 3.5 x \$4,550)	
Travel Expense (2 Surveyors @ \$8,200)	16,400
Vehicle Expense (1 Leased Vehicles)	6,240
Other Current Expense	11,023
(Includes Rent and Telephone Costs)	=====
TOTAL CURRENT EXPENSE	\$ 68,922

EQUIPMENT:

Office Furniture for 3 Charleston Based Staff	\$ 2,800
Computer Equipment:	14,000
2 Laptop Computers	=====
1 Desktop PCs for Office Staff	
TOTAL EQUIPMENT	\$ 16,800
TOTAL ESTIMATED COST	\$ 173,204
	=====

Estimated TOTAL Funds Required for Current & New Requirements

1. Fiscal Year 1995

PERSONAL SERVICES:

0.50 FTEs	Assistant Program Administrator	\$ 16,500
0.50 FTEs	Program Administrator	16,500
2.00 FTEs	Clerical Staff @ \$15,900	31,800
3.00 FTEs	Nurse III/IV @ \$33,082	99,246
1.00 FTEs	Social Worker	22,000
		=====
7.00 FTEs	TOTAL PERSONAL SERVICES	\$ 186,046

CURRENT EXPENSE:

Fringe Benefits (Personal Services @ 22.1%)	\$ 72,966
PLUS: (Insurance @ 7.0 x \$4,550)	
Travel Expense (4 Surveyors @ \$8,200)	32,800
Vehicle Expense (2 Leased Vehicles)	12,480
Other Current Expense	23,422
(Includes Rent and Telephone Costs)	=====
TOTAL CURRENT EXPENSE	\$ 141,688

EQUIPMENT:

Office Furniture for 3 Charleston Based Staff	\$ 2,800
Computer Equipment: 2 Laptop Computers, and 1 Desktop PCs for Office Staff	14,000
	=====
TOTAL EQUIPMENT	\$ 16,800
TOTAL ESTIMATED COST	\$ 344,534
	=====

WORKING DRAFT: 1/6/95

Proposed Additional Modifications to the "Agency-Approved" PCH Rule
Submitted by the DHHR to the LRMRC January 6, 1994

Notation Code

ow = Wolford item (as in September Appendix)
nw = new Wolford (a change to the item as listed in the September Appendix)
h = DHHR (hflac) modification of a non-Wolford item

Strike-through = text to be deleted from the August "agency-approved" rule.
Underline = text to be added to the August "agency-approved" rule.

Footnote numbers do not match numbers in the full rule; text is same.

I. SUBSTANTIVE MODIFICATIONS - "WOLFORD ITEMS"

ow 4.2.2. The applicant shall submit the application to the secretary on forms provided by the secretary accompanied by a check or money order payable to the office of health facilities licensure and certification in an amount established in accordance with W. Va. Code §16-5C-6. The provider of the home shall provide to the secretary a balance sheet showing all expenses and all income on forms provided by the secretary, including but not limited to, reimbursement of the operators, owners, lease payment, number of residents, number of SSI recipients, ~~number of SSD recipients~~, monthly rates charged and resident census form. [C-10]

ow 4.6.5. The secretary shall conduct periodic unannounced inspections to determine the home's continued compliance with applicable statutes and regulations. An inspection may be limited to determination of compliance with Class I standards for a home which has had no substantiated allegations concerning lack of safety, quality of care or infractions of resident rights registered against it. [C-8]

ow 4.6.5.a. The inspection shall be conducted by one (1) or more individuals who are competent to investigate health needs, life safety issues, and behavioral health needs. The team members shall inspect and review all regulatory requirements. ~~except where proceeding under Section 4.5.4 of this rule. The team shall make a detailed inquiry of a number of residents in the personal care home through resident interviews and resident record reviews.~~ [C-8]

ow 4.6.6. The secretary shall prepare a written report of inspections made pursuant to this rule within fifteen (15) days of the completion of the inspection and shall mail a copy to the licensee or administrator as applicable, and the State ombudsman specifically listing any violation of this rule. [C-8]

5.2.1. The administrator of a personal care home shall: ...

nw 5.2.1.b. ~~Obtain ten (10) continuing education units (hours) per year~~ On an annual basis participate in at least ten (10) hours of formal training related to the administration and operation of a personal care home. This training shall include all training offered by the secretary: Provided, That if the secretary offers more than ten (10) hours of training in the relevant time period, an individual may be requested to participate in more than ten (10) hours in any twelve-month period. Records of attendance shall be maintained on file at the personal care home; ... [B-13]

ow 5.2.1.f. ~~Complete at least one (1) annual training course offered by the secretary;~~ [B-13]

~~5.2.1.g. 5.2.1.f. Effective the first day of June, nineteen hundred ninety five (June 1, 1995), have an associates degree, or its equivalent in a related field:-- Provided, That this requirement does not apply to individuals~~

~~who are personal care home administrators or who have been personal care home administrators prior to the first day of June, nineteen hundred ninety five (June 1, 1995); and As of the effective date of this rule, have an associates degree, or its equivalent in a related field: Provided, That individuals who are personal care home administrators or who have been personal care home administrators prior to the effective date of this rule shall not be required to have an associates degree, but shall have completed at least a high school education or shall have a general education development certificate (GED) or an equivalent approved by the State department of education: Provided further that an administrator who does not meet the requirement for a high school diploma or the equivalent on the effective date of this rule shall have two (2) years from said effective date to comply with the high school or equivalent educational requirement; and~~

nw 5.9.4. Awake staff shall be present in the personal care home during normal resident sleeping hours in accordance with the minimum hours of staffing for the home established by §5.9.2 of this rule when residents require supervision during sleeping hours or are in need of limited and intermittent nursing services. Awake staff are optional in homes licensed for ten (10) beds or less if all residents are certified by a licensed health care professional as not being in need of sleep time supervision and they are not in need of limited and intermittent nursing services. [Was 5.9.5; B-12]

nw 5.9.5. A multi-story personal care home shall maintain at least one (1) awake staff per story while residents are sleeping, except that the secretary shall permit one (1) awake staff in a multi-story home if: [Was 5.9.6 & 5.9.5; B-12, B-12]

nw 5.9.5.a. The residents of the home are certified by a licensed health care professional as not being in need of supervision during sleeping hours; [new]

nw 5.9.5.b. The home has no residents who need limited and intermittent nursing services; and [new]

nw 5.9.5.c. The home has an immediate emergency call system from the residents to the awake staff person. [new]

ow 6.1.6.f. A statement that specifies whether the prospective resident does or does not need to have a staff member awake during resident sleep time hours; ~~if the personal care home has a licensed bed capacity of ten (10) or less; and [A-5]~~

nw 6.3.3. If an individual has an identified mental or developmental disorder, he or she shall not be admitted to a personal care home for more than four (4) weeks unless the personal care home can provide evidence of continued professional follow-up to address the individual's current mental health needs or he or she is a client of a licensed behavioral health agency which has assigned a case-manager, who coordinates, monitors and integrates all aspects of the individual's behavioral health service needs. (See also Section ~~6-4-4~~ 6.4.6. of this rule.) [A-5, A-11]

ow ~~6.4.1. If, at any time after admission to a home, a resident is determined to have needs beyond that which the home is licensed to provide, or that the resident's needs are not being met without the resident's informed consent, or that services are being provided contrary to the resident's wishes, the secretary shall instruct the licensee or administrator of the home to bear the cost of and assess the individual for physical health by a physician or behavioral health by a physician or licensed psychologist. Pursuant to the examinations, the examining physician or psychologist, as appropriate, shall complete, sign and date a form provided by the secretary within thirty (30) days from the date the home's licensee or administrator is notified by the secretary that the assessment is required. After the secretary consults with the physician or psychologist who performed the examination, the secretary shall then determine whether the resident is~~

~~appropriate for the home. The secretary's determination shall be final and binding upon the home and the resident. Any resident who is determined by the secretary to be inappropriately residing in a home shall be given thirty (30) days written notice to relocate by the licensee or administrator unless the resident's continued residence in the home presents an imminent danger to the health, safety, or welfare of any resident or a substantial probability exists that death or serious physical harm would result to the resident if allowed to remain in the home. Section 6.4.2 of this rule applies if the secretary determines by observation, interview and record review that: [A-6]~~

ow 6.4.1.a. A resident has not been afforded the opportunity to refuse services and care as specified in Section 7.1.8 of this rule or to participate in the planning of his or her care and supervision as specified in Section 7.2.7 of this rule; or [A-6]

ow 6.4.1.b. A resident is not receiving services and care which is needed in the absence of informed consent to the withholding of the treatment; or [A-6]

ow 6.4.1.c. A resident is being administered services and care which the resident does not want to receive. [A-6]

~~ow 6.4.2. If a resident has individual one-on-one needs that are not met by the allowable service provision in the home as established by this rule, and the individual has medical coverage that permits accessing of additional services, the administrator shall make a referral to an appropriate agency or shall seek to arrange for the provision of these services. These services are subject to the secretary's approval as identified in Section 6.4.1 of this rule. If the secretary makes a determination under Section 6.4.1 of this rule, the home shall bear the cost of a reassessment of the resident's functional needs which reassessment shall be completed and submitted to the secretary within thirty (30) days of a notice of the determination. [A-6] [Note: See 6.4.4 below.]~~

ow 6.4.3. The secretary shall approve or disapprove of the continued stay in the home of a resident for whom a determination is made under the provisions of Section 6.4.1 of this rule if: [A-6]

ow 6.4.3.a. The home in compliance with its policies and procedures; [A-6]

ow 6.4.3.b. The resident has provided written informed consent for the administration or withholding of the treatment or care, as applicable; and [A-6]

ow 6.4.3.c. A licensed health care professional has provided a written order based on medical criteria for the provision or withholding of the treatment. [A-6]

~~ow 6-4-2- 6.4.4. If a resident has individual one-on-one needs that are not met by the allowable service provision in the home as established by this rule, and the individual has medical coverage or financial means that permits accessing of additional services, the administrator shall make a referral to an appropriate agency or shall seek to arrange for the provision of these services. These services are subject to the secretary's approval as identified in Section 6.4.1 of this rule. [A-6, A-10]~~

ow ~~6-4-4- 6.4.6. If a resident exhibits symptoms of a mental or developmental disorder, and the resident is not receiving services to meet his or her current needs, is not a client of a behavioral health center, or does not have a case manager, the home shall advise the individual or his or her legal representative of behavioral health service options within the community. The resident shall have thirty (30) days to obtain necessary services. If the resident or his or her legal representative fails to meet the resident's needs in this area in a timely manner, then the personal care~~

home shall refer the individual to a licensed behavioral health agency: Provided, however, That the home shall seek immediate treatment or refuse to accept the individual if the home has reason to believe that the individual may suffer serious harm or is likely to cause serious harm to himself or herself or to others if appropriate interventions are not provided in a timely manner. [A-7]

nw 7.2.1.d. A written nursing assessment, if nursing services are identified as a need on the resident's individualized functional needs assessment, which shall be reviewed at least once annually or in accordance with the requirements established in Section 13 of this rule. ~~unless the resident is receiving limited and intermittent nursing services which would increase the frequency of the review to once every six (6) months, or as required by standards governing services provided by an outside agency if an agency is providing services to the individual within the home,~~ which The nursing assessment shall include a review of systems, vital signs, allergies, nutritional status, psychosocial status, medications and reason for use, and progress related to any therapy provided during the current review period. [A-8]

nw 7.3.2. The personal care home shall provide assure that each resident has a written, signed and dated health assessment by a licensed physician or other licensed health care professional authorized to perform the assessments by applicable State laws and rules not more than forty-five (45) days prior to the resident's admission, or no more than five (5) working days following admission, and at least annually thereafter. The admission and annual health assessment shall include screening for tuberculosis and other communicable diseases if indicated by exposure, prevalence or risk according to current medical practice in congregate living situations as indicated by the director of the division of health of the department of health and human resources.

ow 7.3.7. The personal care home shall weigh and record each resident's weight in his or her record upon admission, ~~and at least quarterly thereafter,~~ except that a resident requiring limited and intermittent nursing care shall be weighed at least monthly or as ordered by the physician. [A-10]

nw 7.3.8. The personal care home shall report undesirable changes in body weight of five (5) pounds five (5) percent (%) or more to the resident's physician within seventy-two (72) hours of the weighing the identification of the weight loss. [A-10]

nw 7.7.4.b. The resident account record shall show in detail with supporting documentation all monies received on behalf of the resident and the disposition of all funds received. Persons shopping for a residents shall provide a list showing a description and price of items purchased, if the purchase exceeds one dollar (\$1) along with payment of receipts for these items. [C-11]

nw & ow 7.7.4.c. The home shall render a true and complete accounting of the management and disposition of resident funds upon request to the depositor and the secretary and at least quarterly to the resident. and his or her legal representative- Information shall be given to the resident upon request. [C-11]

ow 7.7.4.e. A resident's personal funds exceeding two-hundred dollars (\$200) shall be deposited in an interest bearing account at a local bank. [C-12]

ow 8.4.4. Necessary treatments such as medical services, mental health services, dental services, physical therapy and other rehabilitation services shall be obtained by the home. Transportation to necessary services shall either be provided by the personal care home, arranged through the service provider, or provided by an interested third party: Provided, That an ambulance shall be used only in emergencies. [A-12]

ow 8.5.2. If the personal care home manages funds for a residents, it shall be by written request, in the manner directed by the depositor and in accordance with Section 7.7 of this rule. [C-12]

ow 11.1.1. The provisions of this Section 11 shall apply to physical facilities, operations, maintenance and equipment for all new personal care homes or additions. ~~These requirements may be modified for existing personal care homes only if their application clearly would be impractical in the judgement of the secretary. Provided, That the alternate arrangements are not, in the judgement of the secretary, considered to be detrimental to the health or safety of the occupants and employees of the personal care home.~~ This modification shall conform as nearly as is practicable to the current rule. Requirements that require extensive renovation shall be in place by January 1, 1997. [B-8]

11.1.6. Except as provided in Section 11.1 of this rule, the following documents are adopted as standards for on-site inspections: ...

ow 11.1.6.c. Where local codes or regulations permit require standards lower higher than those required by this rule, local building codes and zoning restrictions shall be observed; and [B-8]

ow 11.2.2. ~~The home shall be located so as to be conveniently accessible to physicians, medical facilities, emergency vehicles, visitors, staff, and necessary services.~~ Homes shall be located in a residential setting as convenient as possible for necessary services and access, if local zoning laws allow. [B-8]

ow 11.3.13. ~~Existing ramps and inclines shall not be less than forty-four inches (44") wide nor steeper than one foot (1') of rise in ten feet (10') of run, and shall be finished with a non-slip surface. New Ramps shall not be less than forty-eight inches (48") wide nor steeper than one foot (1') of rise in twelve feet (12') of run, and shall be finished with a non-slip surface. New and existing ramps shall meet requirements of all applicable local, state and national codes.~~ [B-9]

ow 11.4.1. Existing homes shall contain single occupancy bedrooms with at least eighty (80) square feet of floor area and multiple occupancy bedrooms shall contain at least sixty (60) square feet of floor area per resident, exclusive of closet and bathroom space. All multiple occupancy bedrooms shall have at least eighty (80) square feet of space per occupant exclusive of closet and bathroom space by July 1, 1997. [B-10]

ow 14.2.7. If a licensee does not plan to contest a citation which imposes a penalty, he or she shall submit to the secretary, within four (4) ten (10) business days after the issuance of the citation, the total sum of the penalty assessed. [C-18]

II. SUBSTANTIVE MODIFICATIONS - DHHR

h 3.23. ~~Limited and Intermittent Nursing Care - Nursing care provided to individuals with medical conditions affecting one (1) or more body systems, who require less than two (2) hours of direct, hands on nursing care per day. Individuals who have a medical condition requiring direct, hands on nursing care in excess of two (2) hours per day and which unresolved condition has persisted for a period of greater than sixty (60) consecutive days shall be transferred to a health care facility with the capability of providing the needed level of nursing care. Provided, however, That residents receiving hospice services initiated to meet needs resulting from a terminal illness shall be exempt from this requirement. A personal care home providing extensive or ongoing nursing services or other specialized therapeutic or behavioral health services to four (4) or more individuals concurrently shall be regulated by applicable licensure requirements. Direct hands on nursing care of individuals who need no more than two (2) hours of nursing care per day for a period of time no longer than ninety (90) consecutive days per~~

episode.

~~4.i.iii. If there is to be a change in the leasing cost of any leased personal care home, there shall be an application for a new license as provided for in this section.~~

h 5.2.4. The administrator is responsible for the development and implementation of a quality assurance plan within twenty-four (24) months of the effective date of this rule. ~~to include at a minimum:~~ [Specific topics listed in Sections 5.2.4.a - 5.2.4.p have been deleted.]

5.3.1.g. Not identified on the Nurse Aide Abuse Registry maintained by the State licensure and certification agency. Not known to him or her as indicated by reference checks and a criminal investigation report screening as an individual who has abused or neglected individuals for whom they have provided care or treatment;

h 5.4.8. Residential support staff shall be trained in accordance with this rule except for those requirements that are specific to hands-on personal assistance of residents. Residential support staff shall also be trained to provide the service for which they employed. Such training shall be documented in their personnel file.

~~h 5.8.3. There shall be at least one (1) staff member on the premises at all times who has a current CPR certificate issued within the past year by the American Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department, or a similarly approved program. The CPR certificate shall be renewed annually by a certifying entity.~~

h 5.9.3. Each personal care home shall maintain a minimum of one (1) residential care staff twenty-four (24) hours per day. [Was 5.9.4]

h 6.4.7. Homes with individuals in residence who need more than limited and intermittent nursing care shall inform the resident of the need to move to a health care facility with the capability of providing the needed level of nursing care, except that residents receiving services from a licensed hospice program may remain in the home.

6.4.7.a. The home shall assist the resident to attempt on a monthly basis to secure an alternative care facility.

6.4.7.b. The home shall thoroughly document in the resident's record efforts made by the home and the resident or his or her legal representative to obtain placement in an alternative care facility and refusals from the facilities in the event that the resident is unable to secure alternative placement and remains in the home.

h 7.1. Standard Personal Care Services (Class II I)

h 7.2. Functional Assessment and Individualized Service Plans (Class II II)

7.2.1.b. A psychological assessment for any person with behavioral health needs, completed upon admission and ~~every three (3) years~~ updated annually thereafter unless the resident has experienced significant changes that would warrant re-evaluation;

h 7.2.4. Formal reassessment and an individualized service plan review shall be documented in the resident's record at least annually based upon the month of the resident's admission. If upon completion of the review, a determination has been made that changes in the resident's needs or condition are evident, full reassessment and a new individualized service plan shall be completed.

h 7.2.8. The home may use the resident assessment instrument as part of

the functional needs assessment used to develop individualized service plans, but shall supplement the resident assessment instrument as needed to accurately identify the resident's service needs.

h 7.3.9. All personal care homes shall make arrangements for a registered nurse to manage and oversee the provision of nursing services for all residents of the personal care home in need of nursing services as specified in this rule. Those personal care homes that provide limited and intermittent nursing care shall comply with the requirements established in Section 13 of this rule. Arrangements for nursing services may be made by contract with an individual, or a nursing service with a management entity, or the personal care home may employ a registered nurse, or the administrator of the personal care home may act in this capacity, if licensed as a professional registered nurse. The frequency with which a registered professional nurse shall provide services to the personal care home ~~shall be no less often than one (1) time per week unless the facility is not providing limited and intermittent nursing services.~~ The amount of time and the frequency of visits shall be based upon the needs determined by this rule and of the residents, as defined by the resident assessment instrument.

h 7.4.2. The personal care home shall retain a consultant pharmacist who shall conduct annual pharmacy reviews on all residents receiving limited or intermittent nursing services, except that the reviews shall be conducted quarterly if the any resident of the home is receiving multiple medications or combinations of medications which include one or more of the following classes of drugs: which is psychoactive, cardiogenic, steroidal, anticonvulsive, or is a scheduled drug according to the State Uniform Controlled Substances Act, Chapter 50A, W. Va. Code.

h 7.4.5. ~~Drugs, both p Prescription drugs and non-prescription,~~ shall be obtained, administered or self-administered only on the written order or prescription of a practitioner authorized by law to prescribe drugs in this State. The home shall ensure notification of the licensed health care professional managing the resident's health care regarding the resident's use of over-the-counter medications and the home shall determine whether or not the resident can self-administer such medications in a safe manner.

h 7.4.6. The ~~ability~~ inability of a resident to self-administer medication shall be certified by a licensed health care professional and documented in the resident's record.

h 7.4.12. The personal care home shall ensure that persons administering medications are ~~trained in programs approved by the secretary~~ and that documentation of such training is maintained on file in the home.

h 7.4.25. All controlled drugs shall be ~~returned to the pharmacy for disposal~~ disposed of in accordance with state and federally approved practices.

h 7.4.26. ~~Non-controlled~~ a Unit dose medication and ~~non-controlled~~ medications in sealed original manufacturer's containers which can be credited by the vendor shall be returned to the vendor for credit.

h 7.4.27. All ~~non-controlled~~ medications not returned for credit to the vendor shall be destroyed within the personal care home by two (2) members of the personal care home's staff, one (1) of whom shall be a licensed nurse or the home shall release the medication to the resident's legal representative and maintain a signed receipt in the home as documentation of the release of the medication.

h 8.3.8. Residents shall have the right, if they so choose, to view the results of inspections and complaint investigations conducted by the office of health facility licensure and certification. The deficiencies cited during the most recent survey or of any complaint investigation within the preceding twelve (12) months and the personal care home's plan of correction shall be

posted.

h 9.2.1. When therapeutic diet services are provided by the home, a physician's order for each diet and the meal pattern, including types and amounts of food to be served, shall be on file. Therapeutic diets shall be prepared and served as ordered by the physician. At no time shall a resident be offered less than one thousand ~~two~~ four hundred (~~1,200~~ 1,400) calories daily, unless ordered by the licensed health care professional.

h 9.2.7. Minimum quantities and types of food necessary to meet minimum daily requirements for nutrients and fluid are as follows: ...

h 9.2.7.c. Vegetables: ~~two~~ three (3) or more servings each day. Orange or dark green colored vegetables or other good sources of vitamin A shall be served at least four (4) times per week; ...

h 9.2.7.e. Whole grain or enriched bread and cereal products: one (1) or more servings each meal with at least ~~four~~ six (6) servings each day;

h 10.1.6. All alarms, extinguisher and sprinkler system shall be operational with a tag for documenting maintenance, which includes dates and signatures to verify the provision of maintenance. The sprinkler system shall be inspected by a certified sprinkler installation company on a quarterly basis. The fire extinguishers shall be inspected ~~quarterly~~ monthly by in-house staff and ~~quarterly~~ annually by a certified fire equipment handling company.

h 10.2.2. The disaster and emergency preparedness plan shall have procedures for at least the following situations and shall identify specific tasks and responsibilities for all employees in the event of each situation:
...

10.2.2.g. Severe winter weather.

~~13-1-2-a-~~ 13.1.2.c. Complete a written nursing assessment for each resident with limited and intermittent nursing needs within twenty-four (24) hours following admission, and which shall be rewritten annually thereafter, or at the time of any significant temporary or permanent change in the resident's condition. In the absence of a significant temporary or permanent change in condition, the assessment shall be reviewed every six (6) months.

~~13-1-2-e-~~ 13.1.2.g. Assure that all verbal orders are recorded in the resident's care record, signed by the registered nurse, and countersigned by the physician or other licensed health care provider who issued the order within ten (10) working days from the original order date;

~~13-1-2-q--Evaluate alterations in the physical, mental and social well-being of residents as potential cases of abuse or neglect.~~

13.1.3. The registered nurse shall keep a general record with a complete signature for each entry which shall include at least: ...

~~13-1-3-d--A monthly evaluation of each resident for any signs of alteration in skin integrity; and~~

~~13-1-3-e--Initials for each entry and a complete signature of the registered nurse at the bottom of each page of the record;~~

13.1.4. The ~~registered~~ A licensed nurse shall ~~enter changes in condition into~~ document the following in each resident's individual case record using a complete signature or initials accompanied by a complete signature on each page of the resident's record;

13.1.4.a. A monthly evaluation of each resident for any signs of alteration in skin integrity;

13.1.4.b. Any significant temporary or permanent changes in condition including changes resulting from incidents or accidents; and

13.1.4.c. Any verbal or written orders received from a licensed health care professional.

13.2. Personnel and Staffing (Class F III)

13.2.3. The administrator ~~or assistant administrator~~ shall demonstrate knowledge, skills and abilities in the administration and management of a personal care home ~~servng individuals with mental or physical disabilities as appropriate to the population in care,~~ including: ...

13.2.3.b. The ability to plan and implement the program, and overall services needed by residents.

~~13.2.3.c. Knowledge of financial management sufficient to ensure program development and continuity.~~

13.2.4. The administrator and assistant administrator shall annually attend at least ~~twenty (20)~~ ten (10) hours of training related to management or operation of a personal care home specific to the population in care. Documentation of training attendance and content shall be maintained in their personnel files.

13.3. Resident Care and Related Services (Class F III)

13.3.5. The personal care home shall obtain progress reports from outside professional service providers at least every ~~six (6) months~~ sixty (60) days until it is stated in a report that services are no longer needed.

III. INCLUDES MODIFICATIONS WHICH ARE FOR PURPOSES OF CLARIFICATION, REORGANIZATION, CONSISTENCY WITH STATUTORY LANGUAGE, INCONSEQUENTIAL, OR ARE NEEDED AS A CONSEQUENCE OF MODIFICATION OF AN ITEM LISTED ABOVE IN CATEGORY I OR II. SOME "WOLFORD" ITEMS AND SOME DHHR ITEMS.

2.1. This rule applies to any individual person, and every form of organization, whether incorporated or unincorporated, including any partnership, corporation, trust, association or political subdivision of the State establishing, maintaining or operating a personal care home as defined in W. Va. Code §16-5C-2(e) of and this rule. A facility which provides extensive or ongoing nursing care, other specialized therapeutic care, or behavioral health services to four (4) or more individuals concurrently is subject to other applicable licensure rules.

h 3.20. Legal Representative¹ -

3.20.1. A conservator, limited conservator or temporary conservator appointed pursuant to W. Va. Code §§44A-1-1 et seq., within the limits set by the order;

3.20.2. A guardian, limited guardian or temporary guardian appointed pursuant to W. Va. Code §§44A-1-1 et seq., within the limits set by the order;

3.20.3 An individual with a medical power of attorney pursuant to W. Va. Code §§16-30A-1 et seq. within the limits set by law and the appointment;

3.20.4. A surrogate decision-maker appointed pursuant to W. Va. Code §§16-30B-1 et seq., within the limits set by the law;

3.20.5. An individual appointed as committee or guardian prior to [fill in the effective date of Code Chapter 44A], within the limits set by the appointing order and W. Va. Code 44A-1-2(d);

3.20.6. An attorney in fact appointed with power of attorney under Common Law or pursuant to W. Va. Code §§39-4-1 et seq., within the limits set by the appointment;

3.20.7. An individual named as a representative payee under the U.S. Social Security Act [need USC reference]; or

3.20.8. An individual lawfully appointed in a similar or like relationship of responsibility for a resident under the laws of this State, or another State or legal jurisdiction, within the limits of the applicable statute and appointing authority.

ow 4.7.5. If a complaint is substantiated, the secretary shall advise any injured party of the possibility of civil remedy as required by W. Va. Code §16-5C-8. In addition, residents, their families or representatives, or ombudsman may also pursue independently in court remedies for violations of this rule. [C-10]

ow 4.9.2. If a personal care home which is found to have violated one (1) or more requirements of this rule during a routine inspection, or a complaint or other investigation, fails to correct the violations within one hundred twenty (120) days of the completion of the inspection or investigation, the secretary shall give written notice of the uncorrected violations and of the

¹ Owners and administrators should note that the various types of legal representatives do not necessarily have the lawful authority to act on behalf of the resident in all matters which may require action by a legal representative. For example, a conservator may have responsibility for financial affairs, but not personal affairs, such as medical care.

amount of time until the secretary will report² the personal care home's lack of compliance with the rule to the Social Security Administration to all residents, their families and any legal representatives. The secretary shall also provide all residents with a list³ of approved facilities and agencies to assist them in moving. [C-8]

4.9.3. If a personal care home which is found to have violated one (1) or more requirements of this rule during a routine inspection or a complaint or other investigation fails to correct the violations within two hundred ten (210) days of the completion of the inspection or investigation, the secretary shall report⁴ the personal care home's lack of compliance with this rule to the Social Security Administration. The secretary shall also provide all residents with a list⁵ of approved facilities and agencies to assist them to move. [C-10]

ow 4.12.1. A Class I standard shall be scored as ten (10) points if a personal care home fully complies with the standard. If the home fails to comply fully with the standard and the secretary determines that the lack of compliance presents either imminent danger to any resident or a substantial probability the death or serious harm to any resident would result, the standard shall be scored as zero (0). If the home fails to demonstrate full or substantial compliance with the standard, but complies partially, the standard shall be scored as five (5) points. If the home fails to comply at least partially with a Class I standard, or if the violation is a repeat of a violation cited during the previous licensure inspection, the standard shall be scored as zero (0). [C-14]

ow 4.12.2. A Class II standard shall be scored as nine (9) points if the personal care home fully complies with the standard. If the home fails to comply fully with the standard, but complies substantially, the standard shall be scored as six (6) points. If the home fails to comply fully with the Class II standard and the secretary determines that serious harm to the health, safety, or welfare of any resident would result, the score assigned to the Class II standard shall be zero (0). If the home fails to comply fully or substantially with the standard, but complies partially, the standard shall be scored as four (4) points. If the home fails to comply at least partially with the standard or if the violation is a repeat of a violation cited during

² Under the provisions of 42 U.S.C. 1616(e) and 45 CFR, Part 1397-- Standard Setting Requirements for Medical and Nonmedical Facilities Where SSI Recipients Reside, all states are required to "establish, maintain, and ensure the enforcement of standards for any category [emphasis added] of institutions, foster homes, or group living arrangements, in which, as determined by the State, a significant number of recipients of Supplemental Social Security Income (SSI) benefits resides or is likely to reside. SSI residents who live in relevant facilities which violate any of the standards will be subject to a reduction in their SSI payments ... in an amount equal to any State supplementary benefit or other payment made by the State for any medical or remedial care provided them by the facility." As part of its their responsibilities under the federal regulations, States are required to make certain reports to the residents of deficient facilities and to the appropriate regional office of the United States Social Security Administration.

³ See also footnote #1. The purpose of the notification is to inform residents that they do not have the protection of the violated requirement; the list is intended to provide assistance to the residents in moving if the lack of compliance by the personal care home endangers them or causes a reduction in their SSI benefits.

⁴ See Footnote #1.

⁵ See Footnote #2.

the previous licensure inspection, the standard shall be scored as zero (0).
[C-14]

ow 5.4.2.b. ~~Cardiopulmonary-resuscitation-(CPR)~~ CPR, as applicable, and first aid; ... [B-11] and §5.4.5.c

5.7.1. The personal care home shall maintain a confidential personnel record on each employee, including the administrator and household members who provide services to residents. Each record shall contain at least the following: ...

h 5.7.1.b. ~~Documentation of the results of a the criminal record investigation regarding previous convictions involving abuse, mistreatment or neglect of dependent populations~~ required by Section 5.3.1.g of this rule;

5.9. Minimum Standards for Staffing (Class I)

nw 5.9.1. The personal care home shall rate each resident to determine his or her personal assistance needs utilizing the resident assessment instrument provided by the secretary. The home shall compute an average case mix weight by totaling the ratings of all residents and dividing this total by the number of residents. [Was 5.9.8; B-12]

nw 5.9.2. Table 64-14.2 found at the end of this rule shows the daily minimum number of residential care staff hours according to the average case mix weight, not including staffing requirements for licensed nurses or additional staff required to meet the needs of residents who require limited and intermittent nursing services. The personal care home shall provide staff in adequate numbers to provide the daily minimum number of care hours shown in Table 64-14.2 and additional staff to meet the remainder of the requirements set forth in this Section. [Was 5.9.3 & 5.9.7; B-11, B-12]

owh 5.9.6. An administrator or supervisor-in-charge shall be on duty at all times. A resident care staff person may be designated as the supervisor-in-charge. Residents shall not be designated as supervisors. When regular staff and supervisory staff are absent due to illness and vacations, there shall be coverage by substitute personnel with comparable qualifications. [Was 5.9.1, 5.9.4, 5.9.2 & 5.9.11; B-11, h, h, h]

ow 5.9.7. The home shall have a sufficient number of resident care employees who are responsible for providing personal assistance services and who work according to a specific established schedule in addition to the minimum established in Table 64-65.2 of this rule if needed to provide all services identified in the residents' individualized service plans. [Was 5.9.9; B-12]

ow 5.9.8. The personal care home shall have residential support staff needed to meet the laundry, food service, housekeeping, and maintenance requirements of this rule. [Was 5.9.12; B-13]

ow 5.9.9. Each personal care home shall maintain and furnish to the secretary upon request information from personnel records setting forth the number (in full-time equivalents) and types of employees on duty in the home at any given time. [Was 5.9.10; B-10]

nw 6.1.4. A personal care home shall not admit an individual before a determination has been made that the personal care home can meet the needs of the resident. The decision-making process shall involve an interview between the administrator, or a designee responsible for admission and retention decisions, and the resident and the resident's legal representative, if any, except as specified in Section 6.3.3 or 6.4.6 of this rule. [A-5]

ow 6.2.1. ~~There shall be a written admission agreement with each resident or his or her legally designated representative which shall provide written assurance that the personal care home offers the services necessary to meet~~

~~the identified care needs.~~ There shall be a written admission agreement with each resident which contains a detailed explanation of all costs, annual contract price, and refunds, how personal finances will be managed, how health care will be provided or arranged for, the process of lodging complaints, the agreement to provide a copy of all reports of inspections in response to complaints, and the details of all access to activities which contains written assurance that the personal care home offers the services necessary to meet the identified care needs. [C-12]

ow 6.2.2. ~~The admission agreement shall contain~~ The following shall be provided separately at the time of the agreement: [C-12]

ow 6.2.2.a. ~~A detailed explanation of all costs, annual contract price, and refund policies~~ An explanation of how to access all policies of the home; [C-12]

ow 6.2.2.b. ~~All policies of the home~~ House rules governing resident behavior and responsibilities including the home's policies on smoking, alcohol consumption, visitation, recreational activities (including television), personal laundry, and the use and storage of personal belongings such as furnishings and clothing, which shall be consistent with the provisions of this rule, and shall be disclosed in writing to the prospective resident in advance of the agreement and incorporated by reference in the agreement but not made a part thereof; [C-12]

ow 6.2.2.c. ~~The agreement to provide a copy of all reports of inspections in response to complaints~~ A resident's bill of rights which shall be consistent with the provisions of this rule and attached and incorporated by reference; [C-12]

ow 6.2.2.d. ~~The details of access to all activities~~ How residents, their sponsors, and the public can lodge complaints and raise concerns within the home; [C-12]

~~6.2.2.e. House rules governing resident behavior and responsibilities including the home's policies on smoking, alcohol consumption, visitation, recreational activities (including television), personal laundry, and use and storage of personal belongings such as furnishings, and clothing, which shall be consistent with the provisions of this rule, and shall be disclosed in writing to the prospective resident in advance of the agreement but not made a part thereof;~~

~~6.2.2.f. A resident's bill of rights which shall be consistent with the provisions of this rule and attached and incorporated by reference;~~

~~6.2.2.g. How residents, their sponsors, and the public can lodge complaints and raise concerns within the home;~~

ow ~~6.2.2.h.~~ 6.2.2.e. How the home will address and prepare for emergency situations that affect the well-being of the residents which may include but is are not limited to the following: emergency medical conditions, fire evacuation, natural disasters, severely inclement weather, industrial accidents, major incidents, missing residents and immediate or serious threats; [C-12]

~~6.2.2.j. How the home will manage the personal finances of the resident;~~

6.3.2. No resident shall be admitted or retained if:

nw 6.3.2.a. The home does not have the capability or services to provide appropriate care, except as specified in Section 6.3.3 or 6.4.6. of this rule; [A-10]

ow 6.3.2.b. The resident requires a level of service for which the home is

not licensed or does not provide, however this provision does not permit the home to refuse to provide services required by this rule; or [A-10]

nw 7.3.4. All physician orders shall be reviewed at least once every three (3) months for accuracy by the registered professional nurse or the appropriate licensed health care provider unless there is a medical condition requiring a more frequent review by the resident's physician. [A-9]

h 7.3.10. Arrangements with a home health care agency providing only individualized direct care do not satisfy requirements for nursing management oversight of all residents as specified in this rule, ~~but may be used to satisfy the requirements for services to individual residents.~~

~~7.3.15.c. Assessment of each resident at the time of admission and at least annually thereafter to evaluate the individual resident's needs;~~

h 7.3.16. The home shall provide adequate nursing support staff to ensure appropriate nursing care outcomes. Nursing support staff shall be under the supervision of the registered professional nurse who has assumed the overall responsibility for the oversight and care provided to the residents.

w 7.4.3. The licensee or administrator is responsible for obtaining a drug regimen review for unnecessary drugs of all prescribed medication of each resident. ~~This requirement may be met by the nursing assessment process specified within this rule.~~

h 8.1.2. If a legal representative has been appointed for or designated by any resident as having the authority to exercise on behalf of the resident one (1) or more of the resident's rights under this rule, the home shall afford the legal representative full opportunity to exercise the ~~resident's rights~~ authority. If a legal representative so appointed or designated exercises this authority he or she shall exercise his or her authority in a manner consistent with all applicable State and federal laws and regulations.

h 9.3.1. A personal care home may utilize residential kitchen equipment, however, this provision does not supercede the requirements established in the West Virginia Food Service Sanitation Regulation.

h 10.2.8. The disaster and emergency preparedness plan shall be reviewed and updated by the administrator or his or her designee on an annual basis and signed and dated to verify review.

~~h 11.2.6. Water and sewage shall be connected to municipal systems if possible. If on-site systems are required to meet project needs, these systems shall be submitted to the department for review.~~

h ~~11.2.8.~~ 11.2.7. Parking areas shall be constructed using a clean, solid earth bed, a compacted stone base and a hard surface all weather finish coat with a slope which permits good drainage. There shall be parking spaces for all staff on duty, and a minimum of one (1) parking space for each five (5) beds. and A minimum of (2) two handicapped parking space spaces shall be located at the main entrance. This All parking area areas shall be free of broken, gaped or uneven paving.

\$64-14-13 Additional Requirements Related to the Provision of Limited and Intermittent Nursing or Maximum Personal Assistance.⁶

13.1. ~~Limited and Intermittent Nursing Services~~ General (Class I)

⁶ The provisions of this section apply to personal care homes providing limited and intermittent nursing. ~~or maximum personal assistance as stated in Section 4.1.3 of this rule.~~

13.1.1. A personal care home which wishes to provide provides limited and intermittent nursing care shall: ~~arrange for a registered nurse who has agreed, in writing, to assume responsibility for the oversight of care and services required by this rule to all residents of the personal care home inclusive of the following;~~

~~13.1.1.a. The registered professional nurse shall provide oversight of the care and services through visits to the residents at least five (5) times a week unless the personal care home has a licensed bed capacity of eleven (11) or more. Facilities with eleven (11) or more beds shall conform to the minimum nursing hours established in Section 7 of this rule. Visits shall be of sufficient duration to perform all required duties. Arrange for a registered professional nurse who has agreed, in a written agreement which specifies all services to be provided by the nurse, in accordance with this rule to assume responsibility for the oversight of care and services required by this rule for all residents of the personal care home;~~

~~13.1.1.b. The personal care home shall make arrangements for a registered nurse to manage and provide nursing services for all residents of the personal care home as specified in this rule. Arrangements for nursing services for individual residents may be made by contract with an individual, a nursing service, or a home health agency, or the registered nurse may be an employee or the administrator of the personal care home. Arrangements with a home health agency do not satisfy requirements for nursing management oversight of all residents but may be used to satisfy the requirements for services to individual residents. The registered nurse shall sign a written agreement specifying all services the registered nurse agrees to provide;~~

~~13.1.1.c. The registered professional nurse shall provide direct supervision of the limited and intermittent nursing services provided by ensuring that the services established within the resident's individualized service plan are met;~~

~~13.1.1.d. 13.1.1.b. The personal care home shall implement, within reasonable expectation, the recommendations of the registered nurse regarding care, services and staff training intended to protect the residents; and~~

~~13.1.1.e. 13.1.1.c. The personal care home shall provide written notice to each resident regarding the availability of nursing services at the time of admission, or, for current residents, within seven (7) days of the implementation of the nursing service; thirty (30) days of the effective date of this rule.~~

13.1.2. The registered professional nurse shall:

13.1.2.a. Provide oversight of the care and services through daily contact with the home and visits to the residents at least eight (8) hours a week. Visits shall be of sufficient duration to perform all required duties;

13.1.2.b. Provide direct supervision of the limited and intermittent nursing services provided by ensuring that the services established within the resident's individualized service plan are met;