

3701-18-01

Definitions.

As used in this chapter:

- (A) "Applicant" means a long-term care facility, employee organization, person, or government entity which submits an application for approval or reapproval of a training and competency evaluation program (TCEP) or a train-the-trainer (TTT) program in accordance with the applicable requirements of this chapter.
- (B) "Classroom instruction" means the training and information provided either online or in-person, by:
 - (1) A TCEP, other than clinical experience. Classroom instruction may include in-person laboratory simulation.
 - (2) A TTT program, other than training skills practice.
- (C) "Clinical experience" means the portion of a TCEP during which trainees provide nursing and nursing-related services to patients and residents in an Ohio long-term care facility as part of the training process and under the supervision of ~~the program coordinator or~~ a primary instructor. Clinical experience includes but is not limited to demonstration and return demonstration of nursing and nursing-related services, skills training and skills testing, when those functions are performed in an Ohio long-term care facility.
- (D) "Competency evaluation program" or "test" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated. Ohio's competency evaluation program is conducted by the director or the director's designee under division (C) of section 3721.31 of the Revised Code and rule 3701-18-22 of the Administrative Code.
- (E) "Designee," when used in connection with the director, means the board of nursing, another state agency or political subdivision, the federal government, or any person with whom the director has entered into an agreement under division (C) of section 3721.31 or section 3721.34 of the Revised Code to perform the relevant function.
- (F) "Director" means the director of health or an employee of the department of health to whom the director of health has delegated the pertinent duty.
- (G) "Facility-based TCEP" means a training and competency evaluation program that is ~~owned, operated, and~~ conducted by or in a long-term care facility.
- (H) "Hour" means sixty minutes.

(I) "Laboratory simulation" means the use of individuals and equipment in a classroom setting for instructional purposes to approximate the care of residents in a long-term care facility.

(J) "Licensed health professional" means all of the following:

- (1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
- (2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
- (3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;
- (4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;
- (5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;
- (6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social worker assistant registered under that chapter;
- (7) A speech pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
- (8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;
- (9) An optometrist licensed under Chapter 4725. of the Revised Code;
- (10) A pharmacist licensed under Chapter 4729. of the Revised Code;
- (11) A psychologist licensed under Chapter 4732. of the Revised Code;
- (12) A chiropractor licensed under Chapter 4734. of the Revised Code;
- (13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;
- (14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.

(K) "Long-term care facility" means either of the following:

- (1) A nursing home as defined in section 3721.01 of the Revised Code, other than a nursing home or part of a nursing home certified as an intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities under Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981); or
 - (2) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the Social Security Act.
- (L) "Nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation. "Nurse aide" does not include either of the following:
- (1) A licensed health professional practicing within the scope of the professional's license; or
 - (2) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.
- (M) "Nursing and nursing-related services" when performed by a nurse aide in a long-term care facility, means activities including attending to the personal care needs of patients and residents and providing personal care services and activities assigned by a nurse which may include implementation of portions of the nursing regimen, as defined by division (C) of section 4723.01 of the Revised Code, for residents whose care does not require nursing assessment or the judgment of a nurse during the performance of the assigned activity. Nursing and nursing-related services does not include activities that are part of the nursing regimen which require the specialized knowledge, judgment, and skill of a registered nurse or the application of the basic knowledge and skill required of a licensed practical nurse licensed under Chapter 4723. of the Revised Code or any other activities that are required to be performed by a licensed nurse under Chapter 4723. of the Revised Code.
- (N) "Participant" means an individual who is enrolled in a TTT program approved by the director or the director's designee pursuant to division (A) of section 3721.31 of the Revised Code and paragraph (A) of rule 3701-18-16 of the Administrative Code.
- (O) "Program" means either a TCEP or a TTT program, as the context requires.

- (P) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended (2000).
- (Q) "Skills testing" means the competency evaluation component of a TCEP, as described in paragraph (B) of rule 3701-18-13 of the Administrative Code.
- (R) "Train-the-trainer program" or "TTT program" means a training program for ~~program coordinators and~~ primary instructors of a TCEP.
- (S) "Trainee" means an individual who has enrolled in either of the following:
- (1) A TCEP approved by the director or the director's designee under division (A) of section 3721.31 of the Revised Code and paragraph (A) of rule 3701-18-06 of the Administrative Code; or
 - (2) The test conducted by the director or the director's designee under division (C) of section 3721.31 of the Revised Code and rule 3701-18-22 of the Administrative Code.
- (T) "Training and competency evaluation program" or "TCEP" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.
- (U) "Year of experience" means one thousand six hundred hours of work experience.

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Designation of others to act for the director.

If the director enters into an agreement under division (C) of section 3721.31 or section 3721.34 of the Revised Code which provides that a government entity ~~will to~~ serve as the director's designee to approve in approving training and competency evaluation programs or train-the-trainer programs under this chapter, or that a testing service will serve as the director's designee to conduct the test under rule 3701-18-22 of the Administrative Code, all of the following ~~shall~~ apply:

- (A) All items required by this chapter to be filed with or submitted to the director or the director's designee ~~shall are to~~ be filed with or submitted to the designee and not to the director.
- (B) The designee ~~shall perform~~ performs all acts that this chapter specifies may be performed by a designee consistent with section 3721.31 or 3721.34 of the Revised Code. The director ~~shall continues to~~ perform only those acts that this chapter does not specify may be performed by a designee, or that the agreement does not provide for the designee to perform.
- (C) The designee conducting the state administered test under rule 3701-18-22 of the Administrative Code ~~shall is to~~ be a national standardized testing service.

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Inspections; suspension or revocation of approval of training and competency evaluation and train-the-trainer programs.

- (A) ~~The director or the director's designee shall inspect each approved program during the first year after initial approval. The director or designee shall conduct an unannounced inspection at least once during each approval period thereafter.~~ Each approved program is to be inspected during the first year after initial approval and at least one during each approval period thereafter.
- (1) The director or designee may conduct other announced or unannounced inspections of approved programs or applicants, and sites at which they are or will be conducted, as are deemed necessary, and may investigate complaints pertaining to any approved program.
- (2) The director or designee, at any time it is considered to be necessary, also may examine an approved program by requesting that the program submit documents to the director or the designee.
- (3) If an inspection or examination of an approved program or applicant reveals violations of section 3721.30 or 3721.31 of the Revised Code or of this chapter, the director or the director's designee may require the program or applicant to submit an acceptable, written plan of correction for each violation. ~~The program or applicant shall submit the plan to be submitted~~ within ten business days after receiving notice of the violation. The decision to require or not to require a plan of correction does not preclude the director or the designee from pursuing any other remedy provided by law.
- (B) ~~The director or the director's designee shall~~ is to provide information concerning the approval status of programs to any person or government entity upon request. This requirement may be met through publication to a website.
- (C) Except as otherwise provided in this paragraph or paragraph (D) of this rule, in accordance with Chapter 119. of the Revised Code, the director or the director's designee may suspend, deny, or revoke approval of a TTT program or a TCEP that is not in compliance with sections 3721.30 and 3721.31 of the Revised Code and this chapter, except that the director or the director's designee ~~shall~~ is to revoke or deny approval of any program:
- (1) That refuses to allow an inspection under paragraph (A) of this rule.
- (2) Conducted by or in a long-term care facility if the director may not approve a TCEP for the reasons provided under paragraph (C) of rule 3701-18-06 of the Administrative Code.

If the director or designee revokes approval of a TCEP, ~~the director or designee shall permit the~~ trainees who have started in the program are allowed to complete it.

- (D) Any finding by the director that a TCEP should be denied, suspended or revoked because a long-term care facility did not comply with a provision of Chapter 3701-18 of the Administrative Code and that matter is specified as an initial determination under 42 C.F.R. 498.3 (b)(14)(ii) (1987), ~~shall not be appealed~~ is not subject to appeal under ~~pursuant~~ to Chapter 119. of the Revised Code. Instead the director or the director's designee ~~shall notify~~ notifies the United States department of health and human services of the matter, and any right to appeal or determination of compliance ~~shall be~~ are afforded or conducted in accordance with the regulation of that agency.

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3701-18-04

Application requirements for initial approval of training and competency evaluation program.

(A) A long-term care facility, employee organization, person, or government entity seeking approval of a TCEP shall ~~make an~~ submit a completed application to the director or the director's designee for approval of the program, ~~and shall provide any documentation requested by the director or designee, in accordance with this rule.~~ The application may be filed at any time.

~~(B) To make application, the applicant shall file with the director or the director's designee one original of the completed application forms prescribed and provided by the director or the designee and all attachments required by paragraph (C) of this rule. For the purposes of this rule, a document is filed when it is received by the director or the director's designee.~~

~~(C)~~ (B) ~~The A~~ completed application for initial approval of a TCEP ~~shall be accompanied by~~ includes:

(1) Completed application forms prescribed by the director

~~(1)~~ (2) A nonrefundable application fee of three hundred dollars.

~~(2)~~ (3) Documentation that each proposed primary instructor who will provide any part of the classroom instruction, including laboratory simulation, clinical experience, or evaluation of trainees of the following individuals possesses the qualifications required by rule 3701-18-09 of the Administrative Code:

~~(a) The proposed program coordinator;~~

~~(b) Each proposed primary instructor who will provide any part of the classroom instruction, including laboratory simulation, clinical experience, or evaluation of trainees. The documentation shall not be submitted for guest lecturers;~~

~~(3)~~ (4) A copy of the agreement between the applicant and the proposed program coordinator required by paragraph (A) of rule 3701-18-09 of the Administrative Code, unless the applicant is the proposed program coordinator or plans to operate a facility-based TCEP and the program coordinator is an employee of the facility.

(a) Is the proposed program coordinator; or

(b) Plans to operate a facility-based TCEP and the program coordinator is an employee of the facility

- ~~(4)~~(5) The location and a description of the physical facilities that a TCEP intends to use for classroom instruction, including any laboratory simulation; and
- ~~(5)~~(6) The name, address, facility provider number or, if the facility is not medicare or medicaid certified, the facility license number or "code number, if applicable," and a description of each long-term care facility with which the program will have arrangements for provision of the clinical experience portion of the program, and copies of the written agreements reflecting those arrangements. A facility-based TCEP is not required to submit a copy of a written agreement with the long-term care facility that operates the program.
- ~~(6)~~(7) A curriculum plan, on a form prescribed by the director or the director's designee, for each curriculum standard listed in the appendix to rule 3701-18-12 of the Administrative Code, that includes:-
- (a) The performance objectives prepared in accordance with paragraph (B) of rule 3701-18-12 of the Administrative Code;
 - (b) A topical content outline for each performance objective that describes what will be taught. If the applicant proposes to address a standard by using a textbook, include a summary of the content of the portion of the textbook used to address the standard on the application form;
 - (c) The number of hours to be spent in classroom instruction and clinical experience, and the teaching methods to be used, including whether the classroom portion is to be provided online; and
 - (d) The titles of the individuals who will be providing the instruction or supervising the clinical experience.
- ~~(a) The curriculum plan shall include at least the following information for each standard:~~
- ~~(i) The performance objectives prepared in accordance with paragraph (B) of rule 3701-18-12 of the Administrative Code;~~
 - ~~(ii) A topical content outline for each performance objective that describes what will be taught. If the applicant proposes to address a standard by using a textbook, the applicant shall summarize the content of the portion of the textbook used to address the standard on the application form;~~

~~(iii) The number of hours to be spent in classroom instruction and clinical experience, and the teaching methods to be used, including interactive video discs or similar media; and~~

~~(iv) The titles of the individuals who will be providing the instruction or supervising the clinical experience.~~

~~(b) The applicant may use curriculum plans in its application which already have been determined by the director or the director's designee to meet the requirements of rule 3701-18-12 of the Administrative Code if the following requirements are met:~~

~~(i) The applicant shall certify that it intends to use the previously approved curriculum plan without change or shall describe any proposed variations; and~~

~~(ii) The applicant shall submit with its application the titles of the individuals who will be providing instruction and the topic areas and standards that they will be teaching, and the titles of the individuals who will be supervising clinical experience.~~

(8) The applicant may use curriculum plans in its application which already have been determined by the director or the director's designee to meet the requirements of rule 3701-18-12 of the Administrative Code if the applicant:

(a) Certifies that it intends to use the previously approved curriculum plan without change or shall describe any proposed variations; and

(b) Submits with its application the titles of the individuals who will be providing instruction and the topic areas and standards that they will be teaching, and the titles of the individuals who will be supervising clinical experience;

~~(7)(9)~~ A description of the overall evaluation methodology and a sample copy of a skills checklist to be used to determine successful performance of a skill; and

~~(8)(10)~~ The overall plan for scheduling and implementing both the classroom instruction and clinical experience portions of the program.

~~(D)(C)~~ Individuals that submit with their applications proof that they are a service member or veteran, or the spouse or surviving spouse of a service member or veteran, will receive priority expedited licensure processing within five business days of receipt and before all other applications. The acceptable proof of service member/veteran status documents are:

- (1) Department of defense identification card (active, retired, temporary disability retirement list (TDRL));
- (2) DD214 military discharge certificate indicating disposition of discharge;
- (3) Report of separation from the national archives national personnel records center in St. Louis, Missouri; or
- (4) Veterans identification card from the department of veterans affairs.

All acceptable proof documents, except the veterans identification card, must show the veteran status as honorable, general, general under honorable conditions, or discharged or released under conditions other than dishonorable.

- ~~(1) The acceptable proof of service member/veteran status documents are:~~
 - ~~(a) Department of defense identification card (active, retired, temporary disability retirement list (TDRL))~~;
 - ~~(b) DD214 military discharge certificate indicating disposition of discharge~~;
 - ~~(c) Report of separation from the national archives national personnel records center in St. Louis, Missouri; or~~
 - ~~(d) Veterans identification card from the department of veterans affairs.~~
- ~~(2) All acceptable proof documents, except veterans identification card, must show the veteran status as honorable, general, general under honorable conditions, or discharged or released under conditions other than dishonorable.~~

~~(E)~~(D) If an applicant proposes to offer two or more programs simultaneously, using different primary instructors or different teams of primary instructors, the applicant shall file a separate application and pay a separate application fee for each such program. A separate application is not required if the applicant wishes to list individuals who possess the qualifications required by the applicable provisions of this chapter to serve as substitutes when the regular primary instructors are unavailable. ~~Any such individuals shall possess the qualifications required by the applicable provisions of this chapter.~~

~~(F)~~(E) The director or the director's designee may request from an applicant any additional information necessary to assess compliance with the applicable criteria for program approval established by this chapter. ~~The, to be provided by the applicant shall provide any requested additional information~~ within the time specified by the director or the designee. The director or designee shall mail a written notice to the applicant

either approving or proposing to deny approval of a TCEP within sixty days of receipt of the application.

~~(G) No applicant shall obtain or attempt to obtain approval of a TCEP fraudulently or deceptively.~~

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3701-18-05

Application requirements for reapproval of training and competency evaluation program.

(A) A long-term care facility, employee organization, person, or government entity seeking reapproval of a TCEP shall, on a electronic system approved by the director ~~make an submit a completed~~ application to the director or the director's designee for reapproval of the program ~~and shall provide any documentation requested by the director or designee, in accordance with this rule.~~

~~(B) The application for reapproval of a TCEP shall be:~~

~~(1) Filed no later than the sixtieth day before the expiration date of the program's initial approval or most recent reapproval; and~~

~~(2) Accompanied by a nonrefundable application fee of three hundred dollars.~~

~~(C)(B) The~~ A completed application for reapproval of a TCEP ~~shall be submitted using an electronic reporting system approved by the director and shall include all of the following items:~~

(1) Includes:

(a) The name and address of the program;

(b) The program's approval number;

(c) The enrollment for the twenty-four months preceding submission of the renewal application;

(d) The number of completed programs held during the twenty-four months preceding submission of the renewal application;

(e) A list of the current program coordinator and primary instructors, and the date each primary instructor last taught;

(f) Copies of any new or revised contracts with long-term care facilities for provision of clinical experience, if the contracts have not been submitted already under paragraph (B) of rule 3701-18-06.1 of the Administrative Code. A facility-based TCEP is not required to submit a copy of a written agreement with the long-term care facility that operates the program;

(g) A statement, signed by the program coordinator, certifying that the program currently is in compliance with sections 3721.29, 3721.30 and 3721.31 of the Revised Code and this chapter; and

- (h) The overall plan for scheduling and implementing both the classroom instruction and clinical experience portions of the program;
- ~~(1)(2) The name and address of the program~~ Is filed no later than the sixtieth day before the expiration date of the program's initial approval or most recent reapproval; and;
- ~~(2)(3) The program's approval number~~ Is accompanied by a nonrefundable application fee of three hundred dollars.;
- ~~(3) The enrollment for the twenty-four months preceding submission of the renewal application;~~
- ~~(4) The number of completed programs held during the twenty-four months preceding submission of the renewal application;~~
- ~~(5) A list of the current program coordinator and primary instructors, the date the program coordinator last served as a program coordinator, and the date each primary instructor last taught;~~
- ~~(6) Copies of any new or revised contracts with long-term care facilities for provision of clinical experience, if the contracts have not been submitted already under paragraph (B) of rule 3701-18-06.1 of the Administrative Code. A facility-based TCEP is not required to submit a copy of a written agreement with the long-term care facility that operates the program;~~
- ~~(7) A statement, signed by the program coordinator, certifying that the program currently is in compliance with sections 3721.29, 3721.30 and 3721.31 of the Revised Code and this chapter; and~~
- ~~(8) The overall plan for scheduling and implementing both the classroom instruction and clinical experience portions of the program.~~
- ~~(D)~~ (C) The director or the director's designee may request from a program any additional information necessary to assess compliance with the applicable criteria for program reapproval established by this chapter. The, to be provided by the applicant ~~shall provide any requested additional information~~ within the time specified by the director or the designee. Within sixty days after receiving an application for reapproval, the director or the designee shall provide written notice to the applicant either approving or proposing to deny the reapproval of the TCEP.
- ~~(E) No applicant shall obtain or attempt to obtain reapproval of a TCEP fraudulently or deceptively.~~

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3701-18-06.1**General post-approval requirements for training and competency evaluation programs.**

After receiving notice of approval or reapproval from the director or the director's designee, an approved program shall comply with all of the requirements of this rule. Each program shall:

(A) Maintain compliance with the standards and criteria for approval and all other requirements of sections 3721.29, 3721.30 and 3721.31 of the Revised Code and this chapter.

(B) Using an electronic reporting system approved by the director, notify the director or the director's designee:

(1) At least ten business days prior to the planned implementation date of any proposed change to:

(a) The program coordinator;

(b) Primary instructors;

(c) Curriculum content change of more than five hours;

(d) The site of the classroom instruction or clinical experience; or

(e) Demographic information.

All proposed changes shall be approved by the director or the director's designee prior to implementation, and shall be made in accordance with the requirements of rules 3701-18-09 and 3701-18-10 of the Administrative Code.

(2) Of its scheduled programs at least seven days prior to conducting them, to include:

(a) If a program's curriculum contains subject matter in addition to the subject matter required by rule 3701-18-12 of the Administrative Code, specify the times when the required subject matter will be addressed; and

(b) The location at which the classroom instruction and clinical experience will be conducted;

(3) Immediately upon cancellation of any scheduled training; and

(4) No later than the seventh day of the month following the completion of a program, submit to the director or the director's designee a report listing the

name of each individual who successfully completed or failed the approved program, as determined by the program in accordance with paragraph (E) of rule 3701-18-13 of the Administrative Code.

(C) Notify the director or the director's designee in writing at least forty-five days before curtailing or discontinuing training activities, to include.

(1) A statement of the approved program's plans for disposition of records and a final report including the information required under paragraphs (C)(1) to (C)(5) of rule 3701-18-05 of the Administrative Code. The director or the designee may request that the program submit its records to the director or designee.

(2) Documentation that the program has arranged for the current trainees to be permitted to complete their training at another approved program without additional cost and that it has refunded all money collected for enrollment in future classes.

The director or the director's designee may allow the notification required by this paragraph to be filed less than forty-five days before training ceases, upon a finding that the program was unable to file sooner for reasons beyond its control or that compliance with the forty-five-day notice requirement will cause unusual and unnecessary hardship.

(D) Provide any additional information or documents pertinent to operation of the program or compliance with this chapter to the director or the director's designee upon request.

(E) Permit the director or the director's designee to have access to its staff, physical facilities, classes and records.

(F) Provide each trainee who successfully completes the program a certificate of completion prescribed by the director or the director's designee. Certificates shall be stored to protect them against loss, theft, destruction, and unauthorized use.

(G) Comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252 (1964), 42 U.S.C. 2000d, as amended (1986), section 504 of the Rehabilitation Act of 1973, 84 Stat. 394 (1973), 29 U.S.C. 794, as amended (2002), the Age Discrimination Act of 1975, 89 Stat. 728 (1975), 42 U.S.C. 6101, as amended (2002), the Americans with Disabilities Act, 104 Stat. 328 (1990), 42 U.S.C. 12101, as amended (1995), and any other applicable nondiscrimination legislation.

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Criteria for training and competency evaluation program approval and reapproval; approval period.

- (A) The director or the director's designee shall approve an application for approval or reapproval as a TCEP if the applicant complies with the criteria, standards and requirements for an approved TCEP established by sections 3721.30 and 3721.31 of the Revised Code and by the applicable provisions of rules 3701-18-04 to 3701-18-13 of the Administrative Code.
- (B) The approval or reapproval of a TCEP expires two years after the date of issuance.
- (C) Except as provided in paragraphs (E) and (F) of this rule, the director or the director's designee ~~shall not~~ cannot approve or reapprove a TCEP conducted by or in a long-term care facility which during the previous two years from submission of its application for approval or reapproval:
- (1) Had its license revoked pursuant to Chapter 3721. of the Revised Code; or
 - (2) Was determined by the director or the secretary of the United States department of health and human services to have been out of compliance with the requirements of division (b), (c), or (d), of section 1819 or 1919 of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C.A., 301, as amended (1981). For the purposes of this paragraph, a facility is considered to have been determined to be out of compliance with the specified requirements if any of the following occurred during the previous two years;
 - (a) In the case of a long-term care facility certified as a skilled nursing facility under Title XVIII of the Social Security Act, it operated under a waiver of the medicare nurse staffing requirements established under Title XVIII of the Social Security Act;
 - (b) In the case of a long-term care facility certified as a nursing facility under Title XIX of the Social Security Act, it operated under a waiver of the medicaid nurse staffing requirements established under Title XIX of the Social Security Act, if the waiver was granted on the basis of a demonstration that the facility was unable to provide the nursing care required under the medicaid requirements for a period in excess of forty-eight hours per week;
 - (c) The long-term care facility was subject to an extended or partial extended medicare or medicaid certification survey;
 - (d) The long-term care facility's participation in the medicare or medicaid program was terminated;

- (e) A civil money penalty or fine of not less than ~~five thousand dollars~~ ten thousand four hundred eighty three thousand dollars, as adjusted by 42 CFR 102 (2022), was imposed upon the facility because of medicare or medicaid certification deficiencies;
- (f) A denial of payment for medicare or medicaid admissions was imposed upon the facility because of medicare or medicaid certification deficiencies;
- (g) A temporary manager or a special master was appointed for the facility because of medicare or medicaid certification deficiencies; or
- (h) The facility was closed or its residents were transferred because of medicare or medicaid certification deficiencies.

(D) In the case of an application for reapproval of a TCEP:

- (1) The director or the director's designee shall consider the proportion of the program's trainees taking the test conducted by the director or the director's designee under rule 3701-18-22 of the Administrative Code who successfully completed or passed the test.
 - (2) The director also may consider any deficiencies attributable to the training received from the TCEP that were cited during a survey of a long-term care facility for purposes of licensure under Chapter 3721. of the Revised Code or certification under Title XVIII or XIX of the Social Security Act.
- (E) The director or the director's designee shall reapprove a TCEP conducted by or in a long-term care facility which:
- (1) Was an approved program on September 1, 1994; and
 - (2) On or after September 1, 1994 has not been determined to be out of compliance with division (B), (C), or (D) of section 1819 or 1919 of the Social Security Act, as defined in paragraphs (C)(2)(a) to (C)(2)(h) of this rule; and
 - (3) Otherwise complies with the criteria, standards and requirements for an approved TCEP.
- (F) The director or the director's designee shall not revoke approval of a TCEP conducted by or in a long-term care facility which:
- (1) Was an approved program on September 1, 1994; and

- (2) Subsequent to September 1, 1994 has not been determined to be out of compliance with division (B), (C), or (D) of section 1819 or 1919 of the Social Security Act, as defined in paragraphs (C)(2)(a) to (C)(2)(h) of this rule; and
- (3) Otherwise complies with the criteria, standards and requirements for an approved TCEP.

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3701-18-08

Special requirements for training and competency evaluation programs.

- (A) Each approved TCEP shall meet the special requirements prescribed by this rule, in addition to complying with the other applicable provisions of this chapter.
- (B) Each approved TCEP shall maintain a written agreement with at least one long-term care facility that provides for access by the program to the facility and its residents for the clinical experience portion of the program. A facility-based program is not required to have a contract with the long-term care facility that operates the program but shall provide assurance of compliance with the other requirements of this paragraph. The long-term care facility or facilities used by the program shall meet all of the ~~following requirements~~:
- (1) ~~Each facility shall be~~ Be located in Ohio;
 - (2) ~~The facility or facilities shall have~~ Have residents who have a variety of care needs and conditions of the type for which nurse aides will be caring. The number of residents and variety of care needs and conditions shall be sufficient to accommodate the trainees in meeting the learning objectives established for the clinical experience portion of the TCEP without causing undue burden to the residents or the facility;
 - (3) ~~Each facility shall meet~~ Meet the requirements of rule 3701-18-10 of the Administrative Code; and
 - (4) ~~Each facility shall not~~ Not have had ~~occur~~ any of the events set forth in paragraph (C) of rule 3701-18-06 of the Administrative Code occur.
- (C) ~~Each approved TCEP shall ensure~~ Ensure that each trainee is identified clearly as a trainee during all of the clinical experience portion of the program and during any other direct contact with residents or patients that occurs while enrolled in the program. ~~At minimum, this identification shall consist of, at minimum,~~ wearing an easily identifiable name tag that is legible and that states that the individual is a trainee.
- (D) ~~Each approved TCEP shall require~~ Require that any absence be made up within sixty calendar days. Absences from the sixteen hours of classroom instruction required by paragraph (A)(4) of rule 3701-18-12 of the Administrative Code shall be made up before the trainee provides any nursing and nursing related services involving direct contact with residents or patients. This training may be done by a different approved TCEP other than the original training source, however, ~~the program coordinator or~~ a primary instructor of a TCEP shall document that arrangements were made for coverage of missed material and that the missed material was made up satisfactorily.

Material missed from the sixteen hours of TCEP instruction required by paragraph (A)(4) of rule 3701-18-12 of the Administrative Code shall be made up hour-for-hour;

- (E) ~~An approved TCEP shall not~~ Not allow any trainee to cheat or behave in a manner that is disruptive to the operation of the program.
- (F) ~~Each approved TCEP shall establish~~ Establish and implement a method by which the trainee may evaluate the program.
- (G) ~~Each approved TCEP shall provide~~ Provide to the trainees the registration forms for the state-administered test as required by paragraph (A) of rule 3701-18-24 of the Administrative Code. Each program shall also assist trainees in completing the registration forms, unless the trainee does not choose to register for the state-administered test.
- (H) Before accepting money from individuals seeking to enroll in the program, ~~each approved TCEP shall~~ inform the prospective enrollee of the circumstances under which money paid by the prospective enrollee will be refunded. No TCEP shall charge an individual, who is employed by or who has received an offer of employment from a long-term care facility on the date in which the individual begins the TCEP, for participating in the program including any charge for textbooks, other required course materials, or a test.
- (I) An approved TCEP may apply to the director for a variance for the TCEP to conduct clinical experiences in a laboratory setting in addition to or instead of a nursing home as required by paragraph (B) of this rule. A completed variance request includes:
 - (1) The location of the laboratory in which clinical experiences will take place; and
 - (2) A description of the laboratory and equipment therein.
- (J) The director may grant a variance under paragraph (I) of this rule after considering the TCEP's variance request and historical passage rate the TCEP's trainees on the state competency exam. An approved variance is valid for five years, at which time all variances will be reviewed, and a determination made whether to make them permanent.
- (K) If a variance request is denied, the director shall, within thirty days of denial, send the requesting TCEP the reason for denial.
- (L) The director may revoke a variance at any time if the director determines the health and safety of nursing home residents is in jeopardy, or the TCEP's trainee passage rate falls below the state average pass rate.

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3701-18-09

Personnel requirements for training and competency evaluation programs.

(A) Each approved TCEP shall be administered by a program coordinator who possesses the qualifications prescribed by paragraph (B) of this rule is responsible for the overall administration and accountability of the program, which includes assuring the program's compliance with the applicable provisions of this chapter. The program shall enter into a written agreement with the program coordinator providing for his or her service in that capacity, a facility-based TCEP and the program coordinator is an employee of the facility operating the program. If a program coordinator leaves the program, the program:

- (1) Shall notify the director immediately;
- (2) May complete the program currently in progress; and
- (3) Shall not begin a new program until the program contracts with a replacement or substitute and that individual begins functioning as the program coordinator.

(B) An approved TCEP shall arrange for individuals to serve as primary instructors in accordance with the applicable provisions of this rule.

- (1) The primary instructors of a TCEP collectively shall be responsible for providing the instruction required by rule 3701-18-12 of the Administrative Code and for supervising instruction by supplemental instructors.
- (2) Programs may use individuals who possess the qualifications of a primary instructor as substitutes in cases of absences, vacations, and emergencies.
- (3) In the case of a facility-based TCEP for which the facility's director of nursing serves as the program coordinator, they may not serve as a primary instructor or perform skills testing.

(C) Each TCEP shall arrange for the services of a sufficient number of primary instructors to provide for the training of nurse aides. Each primary instructor shall:

- (1) Possess a current, valid license issued under Chapter 4723. of the Revised Code to practice nursing as a registered nurse a minimum of two years of nursing experience, at least one year of which must be in the provision of long-term care facility services;
- (2) Have a minimum of two years of nursing experience , at least one year of which must be in the provision of long-term care facility services. Experience in evaluating, in a long-term care setting, the clinical skills of individuals

providing care is considered experience in the provision of long-term care facility services.

(3) Provide documentation that they have, at minimum:

(a) Successfully completed a TTT program approved by the director or the director's designee pursuant to division (D) of section 3721.31 of the Revised Code and paragraph (A) of rule 3701-18-16 of the Administrative Code; or

(b) One year experience in teaching adults and possesses the training manual required by paragraph (D) of rule 3701-18-21 of the Administrative Code from an approved TTT program; or

(c) Within the previous three years, provided at least one year of direct supervision of nurse aides in a long-term care facility as a registered nurse.

(4) If qualified, the program coordinator may serve as a primary instructor except in a facility-based TCEP in which the facility's director of nursing is the program coordinator. Individuals who served as program coordinators and primary instructors under the version of this rule as it appeared prior to the effective date of this rule may continue to serve as a primary instructor until there is a twenty-four consecutive month lapse in the individual's service as a primary instructor.

(D) No approved TCEP shall permit an individual to serve as a primary instructor if he or she has not served as a primary instructor of at least one TCEP or faculty member of at least one TTT program within the previous twenty-four consecutive months, unless the individual possess the qualifications prescribed by paragraph (D) of this rule.

(E) All clinical experience shall be under the direct supervision of the primary instructor, a registered nurse, or a licensed practical nurse. As used in this paragraph, "direct supervision" means to be present physically on the floor where the trainee is providing services, to be available at all times to respond to requests for assistance from the trainee, and to be within a distance which allows the supervisor to periodically observe the trainee providing services. Registered nurses, other than the primary instructor, and licensed practical nurses who directly supervise clinical experiences shall have at least one year experience in the provision of long term care services. The TCEP shall maintain, at minimum, a ratio of one nurse for every ten trainees during the clinical experience.

(F) The program coordinator of a TCEP may arrange for an individual or individuals to serve as supplemental instructors to provide training in their areas of expertise and

within their scopes of practice, if needed to meet planned program objectives for a particular portion of the program. A supplemental instructor shall not conduct any skills testing or other form of evaluation. No more than thirty hours of the total classroom instruction may be taught by supplemental instructor. Each supplemental instructor shall be registered, certified, or licensed to practice in his or her area of expertise in Ohio, if required by law, or shall be otherwise appropriately qualified. Each supplemental instructor also shall have knowledge of current developments relevant to the instruction he or she will provide.

(G) An approved TCEP's supplemental instructors may include but are not limited to licensed health professionals, dietitians, sanitarians, ombudsmen, counselors, activities specialists, gerontologists, fire safety experts, residents, or nurse aides. Nurse aides who serve as supplemental instructors shall possess the qualifications prescribed by division (B) or (C) of section 3721.28 of the Revised Code and paragraph (B) or (C) of rule 3701-17-07.1 of the Administrative Code, as applicable. Supplemental Instructors providing instruction concerning direct care of long-term care facility residents shall have had at least one year of experience caring for the elderly or chronically ill of any age. Supplemental Instructors, other than registered nurses or licensed practical nurses with one year experience in the provision of care to residents of a long term care facility, shall not supervise any clinical experience.

(H) Approved programs may provide classroom instruction either online or in-person.

(1) When a program provides for online classroom instruction, a primary instructor or supplemental instructor shall be available at the conclusion of the lesson to respond to questions and generate discussion about the topics covered.

(2) The provision of online classroom instruction does not relieve a program of its responsibility to conduct the evaluation of the trainee required by rule 3701-18-13 of the Administrative Code.

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3701-18-11

Recordkeeping requirements for training and competency evaluation programs.

- (A) Each approved TCEP shall maintain program records for at least two years at the program's business address. The records shall be kept in an area that is readily accessible and able to be locked.
- (1) The records required by paragraphs (B)(1) and (B)(2) of this rule shall be kept in a confidential manner and shall not be released, without consent, to any person other than the trainee or staff member to whom the records relate, or to the director or the director's designee.
- (2) When a program coordinator leaves the program, he or she shall transfer all records to the new program coordinator or leave the records within the program offices.
- (B) Each approved program shall maintain at least the following records:
- (1) As applicable, a final summary report for each trainee. The report shall include enrollment information, attendance records for classroom instruction and clinical experience, skills testing checklists, clinical evaluation, and certificate of completion, if applicable;
- (2) As applicable, the agreement and resume for each program coordinator and primary instructor and documentation of the qualifications of ~~guest lecturers~~supplemental instructors. In addition, the TCEP shall maintain documentation that each such individual meets the requirements of paragraph (B)(3) of rule 3701-18-09 of the Administrative Code; and
- (3) Administrative records including, but not limited to, complaints and the evaluations of the program by trainees.

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3701-18-12

Training and competency evaluation program curriculum criteria.

- (A) An approved TCEP shall provide a combined total of at least seventy-five hours of instruction that, at minimum, addresses each of the topic areas listed in paragraphs (A)(4) and (A)(5) of this rule for at least the specified period of time and the TCEP curriculum standards prescribed by the appendix to this rule.
- (1) Within each topic area, the program shall address each standard as identified in the appendix to this rule. The instruction for each standard shall be comparable to the material specified in the appendix.
 - (2) The curriculum shall be designed to address the day-to-day attitudes and behaviors that promote the healthy functioning of residents, both physically and emotionally, and shall focus on the restoration and maintenance of the resident in as independent as possible a status. The approved TCEP shall have as its objective the development of nurse aides who are able to do all of the following:
 - (a) Form a relationship, communicate, and interact competently on a one-to-one basis with residents;
 - (b) Demonstrate sensitivity to residents' emotional, social, and mental health needs through skillful, directed interactions;
 - (c) Exhibit behavior in support and promotion of residents' rights; and
 - (d) Demonstrate observational and documenting skills needed in the assessment of residents' health, physical condition, and well-being.
 - (3) The curriculum content shall address the needs of various populations such as persons with Alzheimer's disease, dementia, mental illness, or intellectual disability and non-elderly persons with other disabilities. The curriculum content also shall include consideration of ethnic, racial, and cultural factors that affect the provision of care in a long-term care facility. Facility-based TCEPs shall adapt the content of the classroom instruction and clinical experience to the facility's specific resident population or anticipated future population. A facility-based TCEP's curriculum also may include content relevant to the populations of other facilities if the program includes trainees from other facilities.
 - (4) Before the trainees provide any nursing or nursing-related services involving direct contact with residents, the program shall provide at least sixteen hours of classroom instruction, which may include laboratory simulation, addressing the following topic areas for at least the specified period of time:

- (a) Introduction to the program - one-half hour;
 - (b) Communication and interpersonal skills - four and one-half hours;
 - (c) Infection control - two and one-half hours;
 - (d) Safety and emergency procedures - six and one-half hours;
 - (e) Promoting residents' independence - one hour; and
 - (f) Respecting residents' rights - one hour.
- (5) The fifty-nine minimum hours of instruction after completion of the instruction required by paragraph (A)(4) of this rule shall address at least each of the topic areas listed in this paragraph for at least the specified period of time, and shall include sixteen to twenty-five hours of clinical experience. ~~The~~ Unless the TCEP receives a variance from the director under paragraph (I) of rule 3701-18-08 of the Administrative Code, the clinical experience shall be provided in an Ohio long-term care facility and shall address each subject matter component, as listed in the appendix to this rule, within each topic area. The hours of clinical experience may be allocated among the subject matter components of the topic area in whatever manner best accommodates the needs of the program's trainees. The fifty-nine minimum hours of instruction required by this paragraph, including the clinical experience, shall address the following topic areas:
- (a) Basic nursing skills - nineteen hours, including between six and ten hours of clinical experience;
 - (b) Personal care skills - twenty-two and one-half hours, including between seven to eight hours of clinical experience;
 - (c) Mental health and social service needs - eleven and one-half hours, including between two and four hours of clinical experience;
 - (d) Basic restorative services - four hours, including between one and two hours of clinical experience; and
 - (e) Residents' rights - two hours, including not more than one hour of clinical experience.
- (6) The minimum of seventy-five hours of instruction required by paragraph (A) of this rule shall not include time spent in either of the following:

- (a) The orientation program or the in-service education that a long-term care facility is required to provide pursuant to section 3721.29 of the Revised Code and paragraph (K) of rule 3701-17-07.1 of the Administrative Code;
or
 - (b) The test conducted by the director or the director's designee under division (C) of section 3721.31 of the Revised Code and rule 3701-18-22 of the Administrative Code.
- (B) Each approved TCEP shall establish behaviorally stated objectives and measurable performance criteria for each standard and subject matter component listed in the appendix to this rule. The relevant objectives shall be reviewed with the trainees at the beginning of each portion of the program so that each trainee will be able to state what he or she will be expected to do to complete that part of the program successfully.

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3701-18-13

Evaluation requirements for training and competency evaluation programs.

- (A) Each approved TCEP shall include a competency evaluation component which measures the skills of trainees through skills testing.
- (1) Skills testing performed in a long-term care facility may be counted as part of the clinical experience portion of the minimum seventy-five hours of instruction. Skills testing performed through laboratory simulation shall not be counted as part of the clinical experience portion, unless the TCEP has a variance issued under paragraph (I) of rule 3701-18-08 of the Administrative Code.
- (2) The competency evaluation component of a TCEP does not substitute for completion of the test conducted by the director or the director's designee under division (C) of section 3721.31 of the Revised Code and rule 3701-18-22 of the Administrative Code.
- (B) The skills testing shall consist of ~~the program coordinator or~~ a primary instructor observing a trainee's ability to perform a specified task that could be expected of a nurse aide in a long-term care facility. ~~The program coordinator or~~ primary instructor shall determine whether the trainee properly executes the critical elements of the task essential for its successful completion. The results of skills testing shall be recorded on a checklist specific to the task being performed.
- (C) The TCEP shall conduct skills testing for a sufficient number of tasks to evaluate adequately the trainee's knowledge and ability with respect to all matters on which he or she has received classroom instruction or clinical experience. The critical elements of the tasks on which the trainee is tested shall be based upon the objectives and performance criteria established under paragraph (B) of rule 3701-18-12 of the Administrative Code and shall be structured to permit evaluation of the trainee's practical application of the classroom instruction, including evaluation of communication and interpersonal skills.
- (D) ~~At least four hours of~~ At least four hours of skills testing and all monitoring of clinical experience shall be conducted in the physical presence of ~~the TCEP coordinator or~~ a primary instructor who has clinical expertise and no service responsibilities for the facility during the skills testing. ~~Guest lecturers~~ Supplemental instructors shall not perform any skills testing. The program coordinator of a facility-based program who is also the facility's director of nursing shall not perform skills testing.
- (E) For a trainee to complete an approved TCEP successfully, all of the following standards, at minimum, shall be met:

- (1) The trainee attended all classroom instruction and clinical experience or made up any missed portion of the classroom instruction or clinical experience in accordance with paragraph (D) of rule 3701-18-08 of the Administrative Code;
- (2) If the program uses oral or written examinations, quizzes, or both to evaluate trainees, the trainee correctly answered an overall average of at least ~~eighty~~ seventy per cent on all examinations, quizzes, or both; and
- (3) ~~The program coordinator or the~~ primary instructor who conducted the skills testing documented, by means of a checklist, that the trainee successfully completed skills testing for each task on which the trainee was tested, in accordance with paragraph (C) of this rule.

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3701-18-14**Application requirements for initial train-the-trainer program approval.**

(A) A long-term care facility, employee organization, person, or government entity seeking approval of a train-the-trainer program shall submit a completed application to the director or the director's designee for approval of the program. The application may be filed at any time.

(B) A completed application for initial approval of a TTT program includes:

(1) Completed application forms prescribed by the director;

(2) A nonrefundable application fee of six hundred dollars.

(3) Documentation that each of the following individuals possesses the qualifications required by rule 3701-18-18 of the Administrative Code:

(a) The proposed program administrator;

(b) Each proposed faculty member, who will provide any part of the classroom instruction or evaluation of participants required by rule 3701-18-21 Administrative Code. Documentation need not be submitted for supplemental instructors.

(4) The location and a description of the physical facilities that a TTT program intends to use for classroom instruction and training skills practice;

(5) A curriculum plan, on a form prescribed by the director or the director's designee, for each curriculum standard listed in the appendix to rule 3701-18-21 of the Administrative Code.

(a) The performance objectives prepared in accordance with paragraph (B) of rule 3701-18-21 of the Administrative Code;

(b) A topical content outline for each performance objective that describes what is to be taught. If the applicant proposes to address a standard by using a textbook, include a summary of the content of the portion of the textbook used to address the standard on the application form;

(c) The number of hours to be spent in classroom instruction, and training skills practice and the teaching methods to be used, including whether the classroom instruction is to be provided online; and

(d) The titles of the individuals who will be providing the instruction.

- (6) The applicant may use curriculum plans in its application which already have been determined by the director or the director's designee to meet the requirements of rule 3701-18-21 of the Administrative Code if applicant:
- (a) Certifies that it intends to use the previously approved curriculum plan without change or describes any proposed variations; and
 - (b) Submits with its application the titles of the individuals who will be providing the instruction and the topic areas and standards that they will be teaching.
- (7) A description of the evaluation methodology and a sample copy of any evaluative tools to be used to determine successful completion of training; and
- (8) The overall plan for scheduling and implementing both the classroom instruction and training skills practice portions of the program.
- (C) Individuals that submit with their applications, proof that they are a service member or veteran, or the spouse or surviving spouse of a service member or veteran will receive priority expedited licensure processing. Their applications will be reviewed within five business days of receipt and before all other applications for licensure. The acceptable proof of service member/veteran status documents are:
- (1) Department of defense identification card (active, retired, temporary disability retirement list (TDRL));
 - (2) DD214 military discharge certificate indicating disposition of discharge;
 - (3) Report of separation from the national archives national personnel records center in St. Louis, Missouri; or
 - (4) Veterans identification card from the department of veterans affairs.
- All acceptable proof documents, except veterans identification card, must show the veteran status as honorable, general, general under honorable conditions, or discharged or released under conditions other than dishonorable.
- (D) If an applicant proposes to offer separate programs simultaneously, using different faculty members or different teams of faculty members, the applicant shall file a separate application and pay a separate application fee for each such program. A separate application is not required if the applicant wishes to list individuals who possess the qualifications required by the applicable provisions of this chapter to serve as substitutes when the regular faculty members are unavailable.

(E) The director or the director's designee may request from an applicant any additional information necessary to assess compliance with the applicable criteria for program approval established by paragraph (A) of rule 3701-18-16 of the Administrative Code, to be provided by the applicant within the time specified by the director or the designee. The director or designee shall provide written notice to the applicant either approving or proposing to deny approval of a TTT program within sixty days after receipt of the application.

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3701-18-15**Application requirements for reapproval of train-the-trainer program.**

(A) A long-term care facility, employee organization, person, or government entity seeking reapproval of a train-the-trainer program, shall, on a electronic system approved by the director, submit a completed application to the director or the director's designee for reapproval of the program.

(B) A completed application for reapproval of a TTT program:

(1) Includes:

(a) The name and address of the program;

(b) The program's approval number;

(c) The enrollment for the twenty-four months preceding submission of the renewal application;

(d) The number of completed programs held during the twenty-four months preceding submission of the renewal application;

(e) A list of current faculty and program administrator and the dates each faculty member and program administrator taught; and

(f) A statement, signed by the program administrator, certifying that the program currently is in compliance with sections 3721.30 and 3721.31 of the Revised Code and this chapter

(2) Is filed no later than the sixtieth day before the expiration date of the program's initial approval or most recent reapproval; and

(3) Is accompanied by a nonrefundable application fee of six hundred dollars.

(C) The director or the director's designee may request from a program any additional information necessary to assess compliance with the applicable criteria for program reapproval established by this chapter, to be provided by the applicant within the time specified by the director or the designee. The director or the designee shall provide a written notice to the applicant either approving or proposing to deny the reapproval of a TTT program within sixty days after receipt of the application.

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3701-18-16

Criteria for train-the-trainer approval and reapproval; approval period; and post approval requirements.

- (A) The director or the director's designee shall approve an application for approval or reapproval as a train-the-trainer program if the applicant complies with the criteria, standards and requirements for an approved TTT program established by sections 3721.30 and 3721.31 of the Revised Code and by the applicable provisions of rules 3701-18-14 to 3701-18-21 of the Administrative Code.
- (B) The approval or reapproval of a TTT program issued under paragraph (A) of this rule expires two years after the date of issuance.
- (C) After receiving notice of approval or reapproval from the director or the director's designee, an approved program shall ~~comply with all of the following requirements:~~
- (1) ~~The program shall maintain~~ Maintain compliance with the standards and criteria for approval and all other requirements of sections 3721.30 and 3721.31 of the Revised Code and this chapter.
 - (2) ~~The program shall notify~~ Notify the director or the director's designee of any proposed change in the program administrator or faculty members, curriculum content change of more than three hours, or change in the site of the classroom instruction or training skills practice portions of the program. This notification shall be filed in writing with the director or the director's designee at least ten business days prior to the planned implementation date for the proposed change. All proposed changes must be approved by the director or the director's designee prior to implementation.
 - (3) ~~The program shall notify~~ Notify the director or the director's designee in writing at least forty-five days before curtailing or discontinuing training activities. to include:
 - (a) This notification shall include a statement of the approved program's plans for disposition of records and a final report including the information required under paragraphs (C)(1) to (C)(5) of rule 3701-18-15 of the Administrative Code. The director or the director's designee may request that the program submit its records to the director or designee.
 - (b) The notification also shall include documentation that the program has arranged for the current participants to be permitted to complete their training at another approved program without additional cost and that it has refunded all money collected for enrollment in future classes.

- (c) The director or the director's designee may allow the notification required by this paragraph to be filed not less than forty-five days before training ceases, upon a finding that the program was unable to file sooner for reasons beyond its control or that compliance with the forty-five day notice requirement will cause unusual and unnecessary hardship.
- ~~(c) The director or the director's designee may allow the notification required by this paragraph to be filed not less than forty-five days before training ceases, upon a finding that the program was unable to file sooner for reasons beyond its control or that compliance with the forty-five day notice requirement will cause unusual and unnecessary hardship.~~
- (4) ~~The program shall notify~~ Notify the director or the director's designee of its scheduled programs as soon as possible prior to conducting them. This includes:
- (a) ~~If a program's curriculum contains subject matter in addition to the subject matter required by rule 3701-18-21 of the Administrative Code, the program shall specify~~ Specifying the times when the required subject matter will be addressed; if a program's curriculum contains subject matter in addition to the subject matter required by rule 3701-18-21 of the Administrative Code;
- (b) ~~The notification shall include the~~ location at which the classroom instruction or training skills practice portions of the program will be conducted.
- (c) ~~The program shall notify the director or the director's designee immediately upon cancellation~~ Cancellation of any scheduled training.
- (5) The program shall provide any additional information or documents pertinent to operation of the program or compliance with this chapter to the director or the director's designee upon request.
- (6) The program shall permit the director or the director's designee to have access to its staff, physical facilities, classes and records.
- (7) If the program conducted a program during a given month, it shall submit to the director or the director's designee, no later than the seventh day of the following month, a report listing the name of each individual who successfully completed or failed the approved program during the month for which the report is made, as determined by the program in accordance with paragraph (E) of rule 3701-18-21 of the Administrative Code.
- (8) The program shall issue a document, on a form prescribed by the director or the director's designee, to each participant who successfully completes the

program and shall provide the participant the original document. The document, at minimum, shall contain the participant's name, the name of the program, the program approval number assigned by the director or the director's designee, and a statement that the participant successfully completed the program on a specified date. A TTT program that provides instruction to individuals who are seeking to meet the requirements of paragraph (B)(3)(a), (B)(3)(b), (B)(3)(c) or (F)(2) of rule 3701-18-09 of the Administrative Code shall provide to each individual who successfully completes the required instruction the original documentation evidencing the successful completion.

- (9) The program shall comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252 (1964), 42 U.S.C. 2000d, as amended (1986), section 504 of the Rehabilitation Act of 1973, 84 Stat. 394 (1973), 29 U.S.C. 794, as amended (2002), the Age Discrimination Act of 1975, 89 Stat. 728 (1975), 42 U.S.C. 6101, as amended (2002), the Americans with Disabilities Act, 104 Stat. 328 (1990), 42 U.S.C. 12101, as amended (1995), and any other applicable nondiscrimination legislation.

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Special requirements for train-the-trainer programs.

- (A) Each approved train-the-trainer program shall require that the absence of any participant be made up within twenty-eight calendar days. The program administrator or a member of the faculty of a TTT program shall document that arrangements were made for coverage of missed material and that the missed material was made up satisfactorily.
- (B) An approved TTT program shall not allow any participant to cheat or behave in a manner that is disruptive to the operation of the program.
- (C) Before accepting any money from individuals seeking to enroll in the program, each TTT program shall explain to all prospective enrollees the circumstances under which money paid by the prospective enrollee will be refunded.
- (D) Each TTT program shall establish and implement a method by which the participant may evaluate the program;
- (E) An approved TTT program shall not enroll any individual as a participant who does not possess the applicable qualifications of a ~~program coordinator or~~ primary instructor prescribed by paragraph ~~(B) or (E)~~(D) of rule 3701-18-09 of the Administrative Code, with the exception of the prescribed qualifications relating to completion of instruction from an approved TTT program and the long-term care experience. The program shall maintain documentation verifying the identity and credentials of the prospective participants.

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Personnel requirements for train-the-trainer programs.

- (A) Each approved TTT program shall be administered by a program administrator who is a faculty member and possesses the qualifications specified by either paragraph (C)(1) or (C)(2) of this rule. If a program administrator leaves the program, the program:
- (1) Shall notify the director immediately;
 - (2) May complete the program currently in progress; and
 - (3) Shall not begin a new program until the program arranges for a qualified replacement or substitute and that individual begins functioning as the program administrator.
- (B) The program administrator shall be responsible for the overall administration and accountability of the program, which includes being accessible to the faculty and the participants whenever the program is operating and assuring the program's compliance with the applicable provisions of this chapter.
- (C) Each approved TTT program shall arrange for the services of individuals to serve as faculty members for the TTT program. At minimum, the faculty shall consist of either of the following:
- (1) One individual who possesses all of the following qualifications:
 - (a) A current, valid license to practice nursing as a registered nurse issued under Chapter 4723. of the Revised Code;
 - (b) At a minimum, a bachelor's degree;
 - (c) A minimum of one thousand hours of long-term care experience in direct patient care, administration, consultation, education or personnel or any combination thereof; and
 - (d) Experience in teaching adults, as evidenced by at least one hundred fifty hours of classroom teaching or training of adults; or
 - (2) Two individuals, one possessing the qualifications prescribed by paragraphs (C)(1)(a) and (C)(1)(c) of this rule and the other possessing the qualifications prescribed by paragraphs (C)(1)(b) and (C)(1)(d) of this rule.
- (D) The faculty of a TTT program collectively shall be responsible for providing the instruction required by rule 3701-18-21 of the Administrative Code and for supervising instruction by ~~guest lecturers~~ supplemental instructors.

- (E) The TTT program may use individuals who possess the qualifications of faculty members as substitutes in cases of absences, vacations, and emergencies.
- (F) The program administrator of a TTT program may arrange for an individual or individuals to serve as ~~guest lecturers~~ supplemental instructors to provide training in their areas of expertise and within their scopes of practice, if needed to meet planned program objectives for a particular portion of the program. A ~~guest lecturer~~ supplemental instructor shall not conduct any training skills practice or other form of evaluation. ~~No more than six hours of the total classroom instruction may be taught by guest lecturers or by a combination of guest lecturers and media presentations.~~ Each ~~guest lecturer~~ supplemental instructor shall be registered, certified, or licensed to practice in his or her area of expertise in Ohio, if required by law, or shall be otherwise appropriately qualified. Each guest lecturer also shall have knowledge of current developments relevant to the instruction he or she will provide.
- (G) Approved programs may provide ~~use videotapes, films, audio tapes, interactive videodiscs, or similar media to augment classroom instruction online.~~
- (1) When a program ~~uses a videotape, film, audio tape, interactive videodisc, or similar medium for a portion of the~~ provides for online classroom instruction, a faculty member or ~~guest lecturer~~ supplemental instructor shall be available ~~in person, at minimum,~~ at the conclusion of the ~~presentation lesson~~ to respond to questions and generate discussion about the presentation topics covered.
- ~~(2) Not more than six hours of the minimum number of hours of classroom instruction may be taught through use of videotape, films, audio tapes, interactive videodiscs, or similar media, or through a combination of guest lecturers and media presentations. Videotapes, films, audio tapes, interactive videodiscs, or similar media or a combination of media presentations shall not be used for more than two consecutive hours.~~
- ~~(3)~~ (2) Use of an interactive videodisc system ~~The provision of online classroom instruction~~ does not relieve a program of its responsibility to conduct the evaluation of the participant required by paragraph (C) of rule 3701-18-21 or the Administrative Code.

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Recordkeeping requirements for train-the-trainer programs.

- (A) Each approved train-the-trainer program shall maintain program records for at least two years at the program's business address or at the office of the program administrator. The records shall be kept in an area that is readily accessible and able to be locked to protect the records against loss, theft, destruction, and unauthorized use.
- (1) The records required by paragraphs (B)(1) and (B)(2) of this rule shall be kept in a confidential manner and shall not be released, without consent, to any person other than the participant, the staff member to whom the records relate, or to the director or the director's designee.
- (2) When a program administrator leaves the program, he or she shall transfer all records to the new program administrator or leave the records within the program offices.
- (B) Each approved program shall maintain at least the following records:
- (1) As applicable, a final summary report for each participant. The report shall include enrollment information, attendance records for classroom instruction or training skills practice, and other evaluation or summary records;
- (2) The resume for each faculty member and program administrator, and documentation of the qualifications of ~~guest lecturers~~ supplemental instructors.
- (3) Administrative records including, but not limited to, complaints and the participant evaluations of the program.

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3701-18-21

Train-the-trainer program curriculum criteria and evaluation requirements.

- (A) Each approved train-the-trainer program shall provide a combined total of at least twenty-eight hours of instruction, including classroom instruction and training skills practice. The instruction shall address the topic areas listed in this paragraph for at least the specified amount of time, including the required amount of training skills practice, and the TTT program curriculum standards set forth in the appendix to this rule. The instruction under each standard shall be comparable to the material set forth in the appendix. The amount of time required for coverage of each topic area may be allocated among the standards within the topic area in whatever fashion best suits the needs of the program's participants. The TTT program shall provide at least four hours of instruction in addition to the minimum hours required for the topic areas listed in this paragraph. These four hours may be used by the program in whatever fashion best suits the needs of the program's participants. The TTT program shall include instruction on all of the following:
- (1) Program overview - one-half hour;
 - (2) The foundation of the training and competency evaluation program - two hours;
 - (3) The framework for training - three and one-half hours;
 - (4) The training environment - one and one-half hours;
 - (5) The course material design and development process - four and one-half hours, two and one-half of which shall be devoted to training skills practice;
 - (6) Implementation and evaluation - two and one-half hours, one and one-half of which shall be devoted to training skills practice;
 - (7) Presentation practice - seven and one-half hours, four and one-half of which shall be devoted to training skills practice; and
 - (8) Review of the Ohio Administrative Code rules - two hours.
- (B) Each approved TTT program shall establish behaviorally stated objectives and measurable performance criteria for each topic area and standard listed in paragraph (A) of this rule and the pertinent portions of the appendix to this rule. The relevant objectives shall be reviewed with the participants at the beginning of each portion of the program so that each participant will understand what he or she is expected to know and to execute for successful completion of that part of the program.
- (C) Each approved TTT program shall evaluate the participants in the program, except that the program is not required to evaluate participants who are enrolled in the

program for the purposes of meeting the education-based exceptions to the TTT training requirements specified in paragraph (B)(3)(a), (B)(3)(b), or (B)(3)(c) or the requirements of paragraph (F)(2) of rule 3701-18-09 of the Administrative Code. The evaluation, at minimum, shall consist of a written examination and a process for evaluating training skills. The evaluation shall be based upon the objectives and performance criteria established under paragraph (B) of this rule. The written examination, at minimum, shall consist of thirty multiple-choice questions. The training skills evaluation process, at minimum, shall include assessment of the participant's oral presentation of a TCEP subject matter component. The presentation shall address the same component as the participant's presentation under standard VII.2 in the appendix to this rule, with any changes made as the result of critiques by faculty members and other participants. The training skills evaluation process also shall include assessment of the sample performance objectives prepared by the participant during the training skills practice portions of the program.

- (D) Each approved TTT program shall develop and provide each participant with a training manual which includes resource materials useful for offering a TCEP. The manual shall include at least copies of this chapter, including appendices, selected articles which discuss current and future issues in long-term care, resource materials useful for offering a TCEP. The material describing current national and state demographic trends affecting long-term care, reference material on techniques and strategies for training, sections 3721.10 to 3721.34 of the Revised Code, and a bibliography of current training reference resources. Each approved TTT program shall make available to any participant, who requests such material, any relevant guidelines issued by the director or the director's designee.
- (E) For a participant to complete an approved TTT program successfully, all of the following standards, at minimum, shall be met:
- (1) The participant attended all twenty-eight hours of instruction, including classroom instruction and training skills practice, or made up any missed portion to the satisfaction of the program administrator or a faculty member;
 - (2) The participant received a passing score of at least ~~eighty~~ seventy per cent on the written examination given by the program; and
 - (3) The program administrator or faculty members have documented that the sample performance objectives prepared by the participant during the training skills practice portion of the TTT program and the participant's oral presentation, as required by paragraph (C) of this rule, were satisfactory.

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3701-18-22

The state-administered test.

- (A) The director or the director's designee shall conduct a state-administered test under division (C) of section 3721.31 of the Revised Code and this rule. Successful completion of the state-administered test shall be required for an individual to meet the requirements of division (B)(1), (B)(2), (B)(6) or (B)(7) of section 3721.28 of the Revised Code and paragraphs (B)(1), (B)(2), (B)(6) and (B)(7) of rule 3701-17-07.1 of the Administrative Code. As authorized by division (E) of section 3721.31 of the Revised Code, the director shall decline to approve any other tests in Ohio. The state-administered test shall include examination and performance demonstration components.
- (B) As used in rules 3701-18-22 to 3701-18-27 of the Administrative Code, "registrant" means an individual who registers with the director or the director's designee under rule 3701-18-24 of the Administrative Code to take a component of the state-administered test.
- (C) The examination component of the competency evaluation shall include a representative sample of material from each topic area specified in paragraph (A) of rule 3701-18-12 of the Administrative Code and the appendix to that rule, and shall be developed from a pool of test questions, only a portion of which is used in any one examination. The registrant may choose to take the examination component in writing or orally. If taken orally, the examination shall be read in a neutral manner from a prepared text, and shall include an exercise designed to determine the registrant's competency to read job-related information such as a resident's name band or the label on a bottle on a bedside stand, exit signs, danger warnings, and poisoning warnings. The examination shall be given in English, except that if the individual is working in a long-term care facility in which the predominant language of the residents is other than English, the examination may be taken orally in the predominant language used in the facility.
- (D) The performance demonstration portion of the test shall consist, at minimum, of performance of five tasks, which shall be selected randomly for each registrant from a pool of skills evaluation tasks ranked according to degree of difficulty, with at least one task selected from each degree of difficulty. The methods used to evaluate the registrant's performance of the tasks shall include evaluation of the registrant's non-task-oriented competency, such as communication and interpersonal skills. The performance demonstration portion of the competency evaluation may be held either in an Ohio long-term care facility or in a test center equipped for that purpose. The performance demonstration portion of the test shall be given in English, except that if the individual is working in a long-term care facility in which the predominant language of the residents is other than English, the examination may be taken at that

facility in the predominant language used in the facility. Skills evaluation tasks may include but are not limited to the following:

- (1) Making an occupied bed;
- (2) Taking and recording a resident's temperature, pulse, and respiration;
- (3) Orienting a new resident to the facility;
- (4) Performing range of motion exercises;
- (5) Giving a bed bath; or
- (6) Positioning a resident on his or her side.

- (E) The physical facilities that the director or the director's designee uses in conducting both components of the test shall meet the requirements of rule 3701-18-10 of the Administrative Code. The director or director's designee shall not conduct either component of the test in a long-term care facility in which any event set forth in paragraph (C) of rule 3701-18-06 of the Administrative Code has occurred.
- (F) An individual who serves as an evaluator for the performance demonstration component of the test shall be a registered nurse who has at least one year nursing experience in a long-term care facility and who is licensed under Chapter 4723. of the Revised Code. The examination component of the test shall be proctored by at least one evaluator who shall be responsible for assuring that no cheating or disruptive behavior occurs during the examination.
- (G) The director or the director's designee shall advise in advance any individual who takes the test that a record of the successful completion of the evaluation will be included in the nurse aide registry established under section 3721.32 of the Revised Code.
- (H) Neither the director nor the director's designee shall disclose test materials, examinations, or evaluative tools used in the state-administered test to any person or government entity, except as the director or the designee determines to be necessary for the administration and enforcement of Chapter 3721. of the Revised Code and the rules adopted under that chapter. The test materials, examinations, and evaluative tools are not public records for the purpose of section 149.43 of the Revised Code and are not subject to inspection or copying under section 1347.08 of the Revised Code. The director or the director's designee shall maintain a system to assure compliance with the requirements of this paragraph.

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3701-18-25**Fees for the state-administered test.**

- (A) A registration fee or fees shall accompany the registration form submitted under rule 3701-18-24 of the Administrative Code for one or both components of the state-administered test. The fee shall be paid in a form other than cash or a personal check, made payable to the director's designee in the applicable amount or amounts published to the department of health's website, <https://odh.ohio.gov/know-our-programs/nurse-aide-training-and-competency-evaluation-program-NATCEP/natcep>.
- (B) Neither the director nor the director's designee shall impose on a nurse aide any charge for participating in the test. The fee for registering to take a component of the test shall be paid by the long-term care facility or other person or government entity employing the registrant as a nurse aide. If a registrant is not a nurse aide as defined in rule 3701-18-01 of the Administrative Code, the director or the director's designee may charge the registration fee to the registrant.
- (C) A registrant may reschedule to take the test one time without charge provided he or she notifies the director's designee at least five work days before he or she is scheduled to take the test.

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3701-18-26

Scheduling and administration of the state-administered competency evaluation program.

- (A) After the director or the director's designee receives all items required by the applicable provisions of rule 3701-18-24 of the Administrative Code for registration to take a component or components of the state-administered competency evaluation program at a test center, the director or designee shall notify the registrant of the time and place for the registrant to take the component or components and shall provide the registrant with a notification letter or a copy of an e-mail of the time and location of the test.
- (B) To take the examination or performance demonstration component of the state-administered competency evaluation program, the registrant shall present the following items, as applicable, at the testing site for that component:
- (1) A valid social security card and government issued picture identification card such as a driver's license or state identification card. If a registrant's religious beliefs prohibit the taking of his or her photograph, the registrant shall present two of the following items: his or her social security card, and birth certificate, or visa issued by the United States citizenship and immigration services agency. The registrant shall provide supporting documentation if the names on the social security card, driver's license or birth certificate do not match.
 - (2) For either or both components of the competency evaluation program, if taken at a test center, the notification for admission to the examination that was provided by the director or the director's designee under paragraph (A) of this rule. Before administering the component or components at the test center, the director or designee shall request that each registrant sign in; and
 - (3) For either or both components, if taken in a long-term care facility, the registrant shall submit to the director or the designee the completed registration form and applicable documents required by rule 3701-18-24 of the Administrative Code.
- ~~Each registrant shall also bring to the test site two number two pencils, an eraser and, if desired, a non-programmable calculator. Registrants are not permitted to use the calculator function on a cellular phone.~~ Non-programmable calculators may be brought or provided.
- (C) An individual who has a hearing impairment, as certified by the director of nursing of the long-term care facility where the individual currently is working, or by the individual's personal physician if the individual is not working currently at a long-term care facility, may use an interpreter in taking the competency evaluation.

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3701-18-27

Completion of the state-administered competency evaluation program; reporting of results.

(A) To complete the state-administered test successfully, a registrant shall do both of the following:

- (1) Answer correctly at least ~~the percentage~~ seventy per cent of questions on the examination component of the program ~~specified by the director or the designee~~; and
- (2) Perform each of the skills evaluation tasks included in the performance demonstration component of the program satisfactorily.

(B) Except as provided in paragraph (B) of rule 3701-18-23 of the Administrative Code, if a registrant fails to complete one component of the program successfully but completes the other component successfully, the registrant need not retake the component that he or she completed successfully.

(C) Within thirty days after a registrant successfully completes the test, the director or the director's designee shall report his or her name and social security number to the nurse aide registry established under section 3721.32 of the Revised Code.

- (1) For each such registrant, the director or the designee also shall report to the registry any information concerning the registrant's successful completion of a training and test that was submitted to the director or the director's designee under paragraph (G) of rule 3701-18-06.1 of the Administrative Code.
- (2) The director shall issue a failing score report to each registrant who did not successfully complete the component or components. The report shall advise the registrant of the parts of the component that he or she did not pass and that he or she has at least three opportunities to successfully complete both components of the evaluation, so long as they are both completed within the timeframes set forth in paragraph (B) of rule 3701-18-24 of the Administrative Code.

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