

ADTS	133016
Program	PPR

To: Interested Parties

From: Olivia Igel, Bureau of Regulatory Operations
Ohio Department of Health

Subject: Five Year Rule Review of Ohio Administrative Code Rules 3701-17-01 to 3701-17-26 (“Licensing of Nursing Homes”)

Date: January 30, 2024

In accordance with Ohio Revised Code Section 119.04, the Ohio Department of Health (“ODH”) is conducting a five-year rule review of Ohio Administrative Code rules 3701-17-01 to 3701-17-26 (“Licensing of Nursing Homes”). ODH is responsible for licensing nursing homes in Ohio. These rules as posted are the result of a two-year long stakeholder process that began looking at the rules holistically to see how Ohio could better serve nursing home residents while attempting to keep changes as cost neutral for nursing homes as possible. All rules have been amended to remove regulatory restrictive language in accordance with SB 9 of the 134th General Assembly. ODH is proposing to amend the rules as follows:

3701-17-01

This rule lists the definitions of terms used in rules 3701-17-01 to 3701-17-26 of the Administrative Code. Amendments include adding, modifying, and updating terms to meet current professional standards, including chemical restraint,” “elopement,” and “skilled nursing.”

3701-17-02

This rule states that rules 3701-17-01 to 3701-17-26 of the Administrative Code apply to all nursing homes. Amendments are limited to removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly.

3701-17-03.1

This rule states the fee (\$2,250.00) for expedited initial inspections of nursing homes. Amendments are limited to removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly.

3701-17-04

The rule sets forth the requirements for determining a nursing home’s licensing capacity. A reference to “adult care facility” which are now called “residential facilities” and are licensed by the Ohio Board of Mental Health and Addiction Services, has been updated.

3701-17-05

This rule summarizes certain actions prohibited for applicants, nursing homes, staff, and other individuals. The rule has been reformatted for clarity and flow of information and clarify that a guest of a staff member is considered a transient guest.

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3701-17-06

This rule outlines the responsibilities of the nursing home administrator and the operator, as well as requirements for quality assurance and performance improvement (QAPI). Amendments add additional criteria to the existing reporting requirements. These include resident elopements, cash on delivery requirements from vendors for past non-payment, non-payment of taxes, and inadequate supplies. The rule has been further amended to require the administrator to notify the director of interruptions to services, lack of staff, and a known change to the owner or operator of the home. Finally, the rule has been amended to clarify who should be involved in the QAPI.

3701-17-07

This rule sets forth the qualifications for health personnel including physicals, testing, licensing, and criminal records checks for direct care providers. Additionally, the rule outlines the responsibilities of the activity's director, food service manager, medical and nursing, and operators. Amendments clarify that infection control is part of the required orientation and training for staff, and that current disciplinary actions against a professional license disqualify that individual from employment by the facility.

3701-17-07.1

This rule details the required training and competency evaluation for state tested nurse aides working in long term care facilities. Amendments are restricted removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly

3701-17-07.2

This rule sets forth the required training for, and how a dining assistant may be used in a nursing home. The rule also includes an appendix that has the dining assistant program curriculum. Amendments have been made to allow for eight hours of didactic training to be provided online with an instructor present to answer questions. The curriculum in Appendix A has been updated to reflect the new language.

3701-17-07.3

This rule sets forth the training, testing, and work experience requirements that a nurse aide must meet to be placed and retained on the Nurse Aide Registry. Amendments are restricted removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly

3701-17-08

This rule establishes the minimum personnel requirements for nursing homes, including nursing, dietary, activities, and ancillary staff. The rule has been amended to require homes to have a designated infection prevention and control coordinator and homes with one hundred or more residents to employ an administrator on a full-time basis and to have the administrator designate another staff member to act in their stead when they are absent. Finally, the home is required to check and update employee contact information at least twice a year.

3701-17-09

This rule establishes parameters and personnel requirements for ongoing activities programs, social services, chaplain services, mail, and access to technology. Amendments add electronic mail and teleconferencing on a computer or other device to the communication options available to

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residents. Finally, staff are required to assist residents with their communication devices as necessary and provide outdoor visitation in the event of emergencies or public health emergencies.

3701-17-10

This rule details the requirements for resident medical assessments, both annual and periodic, as well as advanced care planning for residents. Amendments add to the assessment criteria to determine what type of assistance a resident may require. These criteria include a head-to-toe skin assessment, ability to conduct activities of daily living, risk for elopement, and planning for discharge if that is the choice of the resident. Finally, the home is required to assess whether residents who smoke can do so safely on their own or if they require a smoking apron or observation.

3701-17-12

This rule establishes notification and reporting requirements for nursing homes when residents have a change in health status. Amendments have been made requiring the reporting of elopements to the Director and elopements involving cognitively impaired elopements to the local law enforcement.

3701-17-13

This rule requires each nursing home to have a medical director and establishes the medical directors' duties, including periodic evaluation of residents. The rule also requires each home to ensure that every resident is under the supervision of a physician. Amendments require the medical director to review all deficiency statements pertaining to the home and to make themselves or their designee available in-person or on-call during emergencies, evacuations, closures, and decertification or licensure actions.

3701-17-14

This rule details the requirements for resident care plans, transfer and discharge responsibilities of the home, and coordination of care when the resident is receiving hospice services. Amendments require discharge planning to begin upon admission for residents who wish to be discharged, and report elopements involving cognitively impaired residents to local law enforcement.

3701-17-15

This rule outlines how restraint may be used in nursing homes, including the need for a physician's order and periodic review of the restraint. The rule also bars transitional holds and prone restraints in homes. Amendments have been made requiring the reporting of elopements to the Director and elopements involving cognitively impaired elopements to the local law enforcement.

3701-17-16

This rule sets forth what equipment and supplies a nursing home must have to meet the needs of residents, including mattresses, dressers and other bedroom items not furnished by the residents. Amendments clarify that a resident can choose an alternate piece of furniture to sleep in, the home must maintain a bed for the resident regardless of where they choose to sleep, windows will have blinds or curtains the resident or staff can open, and that a call system must be accessible to the resident in a manner most appropriate for their abilities and be within reach.

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3701-17-17

This rule sets forth what medicines and drugs the nursing home is required to obtain. The rule also details to whom the drug should be administered and how they should be labeled. Amendments include reformatting to improve the flow of information, medication and records for each resident must be available during emergencies and evacuations, and medications must be available or arranged to be available in accordance with a resident's plan of care upon admission.

3701-17-18

This rule outlines the food and nutrition requirements in nursing homes, including what meals must be served. The rule also requires a nursing home to employ a dietician to oversee the dietary service of the home. Amendments are limited to removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly.

3701-17-19

This rule outlines what records are to be kept by a nursing home and for how long, requires the home to note the resident's Medicare Part D plan, if any, in the resident's admission record, and to require a photograph of the resident, if the resident consents. Amendments include requiring the facility to review and update contact information for each resident's relative or guardian, if applicable, every six months.

3701-17-20

This rule sets forth requirements for smoking and fire safety requirements for ashtrays and waste containers and to require a home that permits outdoor smoking to make accommodations for residents during adverse weather conditions. Amendments incorporate electronic smoking devices (vapes) into smoking prohibitions and make arrangements for residents who smoke during inclement weather, public health emergencies, isolation, or quarantine.

3701-17-21

This rule outlines the space requirements for nursing home dining and activity areas. The rule also details the requirements for toilet rooms in nursing homes. This rule has been amended to clarify the timeframes for compliance with the dining and activity room requirements: (1) prior to December 22, 1964; (2) between December 22, 1964, and July 17, 2002; and (3) after July 17, 2002. Amendments clarify the square footage requirements for dining and recreation rooms when a building has been closed and reopens and that toilet rooms are not allowed to be shared by rooms.

3701-17-22

This rule sets forth plumbing, building and sanitation requirements for nursing homes, and bans the use of overhead paging. Amendments clarify that pest extermination should be considered urgent and remediation should commence as soon as possible and remove an outdated paragraph pertaining to overhead paging.

3701-17-23

This rule establishes space and occupancy requirements for resident sleeping rooms with 3 square footage and room capacity requirements based on the date the home was licensed: (1) prior to December 22, 1964; (2) between December 22, 1964, and July 17, 2002; and (3) after July 17,

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2002. Amendments clarify that buildings or rooms taken out of service and then reopened are allowed to have no more than two residents.

3701-17-24

This rule establishes the temperature range allowable in nursing homes, between 71- and 81-degrees Fahrenheit, requires the home to develop a plan for resident health and safety when the temperature in the home is outside of the range, and requires repairs to be made in less than 48 hours when the HVAC system is incapable of maintaining appropriate temperatures. Amendments require the home to have a device, such as a handheld hygrometer or infrared thermometer to check the ambient temperature of rooms.

3701-17-25

This rule sets forth the disaster preparedness requirements in the event of fire or another emergency. The rule also requires emergency evacuation drills, a plan for protection of all persons in the event of fire, to include a fire watch, notice to the Ohio missing adult alert system when a resident is missing, and for staff fire training to be conducted by the state fire marshal or township, municipal, or local legally constituted fire department. Amendments require the home to notify the director when there is an interruption of services due to emergency or disaster, report elopements to the director and elopements of cognitively impaired residents to local law enforcement, maintain a copy of the disaster preparedness plan offsite, and have policies and procedures in place to ensure infection prevention and control during evacuation or other movement of residents.

3701-17-26

This rule sets forth the procedures for requesting and granting a variance to the requirements of the Administrative Code Chapter 3701-17. Amendments add language to clarify that the approval of a waiver or variance for one facility does not constitute a precedent for other waivers or variances requests.

New

3701-17-03

This new rule replaces the existing rule due to the Legislative Service Commission rule drafting requirements for rules amended more than fifty percent. The rule sets forth the application for license requirements, what constitutes a complete application, what the license fee is for nursing homes (\$320.00 for every 50 persons or part thereof), the application process, conditions for issuance of a license, and circumstances in which a license can be revoked. In accordance with HB 33 of the 135th General Assembly, the rule has been amended to incorporate statutory requirements pertaining to a Change of Operator application, specify what information must be provided as part of the licensing application, and the remedies available to the Director if a change of operator occurs without an application being submitted. Additional amendments clarify that the state and regional long-term care ombudsman must be notified in the event of a closure or change in information regarding owners and operators previously provided to ODH.

3701-17-03.2

This new rule establishes the fee for a change of operator license application at \$3,200.

3701-17-11

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This new rule replaces existing rule 3701-17-11 and establishes the tuberculosis and infection control requirements for nursing homes. These requirements include developing policies and procedures to ensure a safe, sanitary, and comfortable environment for residents and to control the development and transmission of infections and diseases including standard precautions, tuberculosis facility assessments, and laundry practices.

Please review the draft amended rules and provide any comments you may have by February 20, 2024, to the address below. Please include the words “Nursing Home Licensure” in the subject line of all comments sent via regular mail or e-mail. ODH will review and consider the comments received before the rule is submitted for formal rule proposal and adoption proceedings. Thank you.

Office of the General Counsel (Nursing Home Licensure Rules)
Ohio Department of Health
246 N. High St.
Columbus, Ohio 43215
ODHRules@odh.ohio.gov

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3701-17-01 Definitions.

As used in rules 3701-17-01 to 3701-17-26 of the Administrative Code:

- (A) "Accommodations" means housing, meals, laundry, housekeeping, transportation, social or recreational activities, maintenance, security, or similar services that are not personal care services or skilled nursing care.
- (B) "Activities of daily living" means bed mobility, locomotion and transfer, bathing, grooming, toileting, dressing, and eating.
- (C) "Administrator" means the individual, licensed as a nursing home administrator under Chapter 4751. of the Revised Code, who is responsible for planning, organizing, directing and managing the operation of the nursing home.
- (D) "~~Adult care~~ Residential facility" has the same meaning as in section ~~5119.70~~ 5119.34 of the Revised Code.
- (E) "Chemical restraint" means ~~any medication bearing the American hospital formulary service therapeutic class 4.00, 28:16:08, 28:24:08, or 28:24:92 that alters the functioning of the central nervous system in a manner that limits physical and cognitive functioning to the degree that the resident cannot attain his highest practicable physical, mental, and psycho-social well-being.~~ any drug that is used for discipline or staff convenience and not prescribed to treat medical symptoms.
- (F) "Complex therapeutic diet" has the same meaning as "therapeutic diet" as that term is defined in paragraph (~~LL~~MM) of this rule.:
- (G) "Department" means the department of health of the state of Ohio.
- (H) "Dietitian" means an individual licensed under Chapter 4759. of the Revised Code to practice dietetics.
- (I) "Director" means the director of the department of health of the state of Ohio or the director's duly authorized representative.
- (J) "Elopement" means the unsupervised wandering of a resident that results in the resident leaving the facility without notice or detection. A situation in which a resident with decision-making capacity leaves the facility intentionally will not be considered an elopement unless the facility is unaware of the resident's departure and/or whereabouts.
- (~~J~~)(K) "Full-time" means an individual works thirty hours or more per week.
- (~~J~~)(L) "Habitable floor area" means the clear floor area of a room and the floor area occupied by the usual bedroom furniture, such as beds, chairs, dressers, and tables and does not include the floor area occupied by wardrobes unless the wardrobe is of the resident's own choice and it is in addition to the individual closet space in the resident's room, and areas partitioned off in the room such as closets and toilet rooms.
- (~~K~~)(M) "Home" has the same meaning as in division (A)(1) of section 3721.01 of the Revised Code.
- (~~L~~)(N) "Hospice care program" or "hospice" means an entity licensed under Chapter 3712. of the Revised Code.
- (~~M~~)(O) "Lot" means a plot or parcel of land considered as a unit, devoted to a certain use, or occupied by a building or group of buildings that are united by a common interest and use, and the customary accessories

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and open spaces belonging to the same.

~~(N)~~~~(P)~~ "(P) "Licensed practical nurse" means a person licensed under Chapter 4723. of the Revised Code to practice nursing as a licensed practical nurse.

~~(Q)~~~~(Q)~~ "(Q) "Maximum licensed capacity" means the authorized type and number of residents in a nursing home as determined in rule 3701-17-04 of the Administrative Code.

~~(R)~~~~(R)~~ "(R) "Mechanically altered food" means that the texture of food is altered altered by chopping, grinding, mashing, or pureeing so that it can be successfully chewed and safely swallowed.

~~(S)~~~~(S)~~ "(S) "Mental impairment" means a condition in which a part of a person's brain has been damaged or is not working properly. Mental impairment does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as used in Chapter 5123. of the Revised Code.

~~(T)~~~~(T)~~ "(T) "Nurse" means a registered nurse or a licensed practical nurse.

~~(U)~~~~(U)~~ "(U) "Nurse aide" means an individual as defined in paragraph (A)(3) of rule 3701-17-07.1 of the Administrative Code.

~~(V)~~~~(V)~~ "(V) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

~~(W)~~~~(W)~~ "(W) "Ohio building code" means the building ~~requirements~~standards as adopted by the board of building standards pursuant to section 3781.10 of the Revised Code.

~~(X)~~~~(X)~~ "(X) "On duty" means being in the nursing home, awake, and immediately available.

~~(Y)~~~~(Y)~~ "(Y) "Operator" means the person, firm, partnership, association, or corporation which is ~~required~~obligated by section 3721.05 of the Revised Code to obtain a license in order to open, maintain, or operate a home.

~~(Z)~~~~(Z)~~ "(Z) "Personal care services" means services including, but not limited to, the following:

- (1) Assisting residents with activities of daily living;
- (2) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;
- (3) Preparing special diets, other than therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

"Personal care services" does not include "skilled nursing care" as defined in paragraph ~~(HH)~~(II) of this rule.

~~(AA)~~~~(AA)~~ "(AA) "Pharmacist" means an individual licensed under Chapter 4729. of the Revised Code to practice pharmacy.

~~(BB)~~~~(BB)~~ "(BB) "Physically restrained" means that residents are confined or in the home in such a manner that the freedom for normal egress from the home is dependent upon the unlocking or unbolting by others of one or more doors or barriers, or the removal of physical restraints, except as permitted under paragraph (B)(3) of rule 3701-17-15 of the Administrative Code.

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~~(AA)~~~~(CC)~~ "Physical restraint" means, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, a geriatric chair, or a locked room door.

~~(BB)~~~~(DD)~~ "Physician" means an individual licensed under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

~~(CC)~~~~(EE)~~ "Resident" means an individual for whom the nursing home provides accommodations.

~~(DD)~~~~(FF)~~ "Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

~~(EE)~~~~(GG)~~ "Residents' rights advocate" means:

- (1) An employee or representative of any state or local government entity that has a responsibility regarding residents and that has registered with the department of health under division (B) of section 3701.07 of the Revised Code;
- (2) An employee or representative of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended (2015), and that has registered with the department of health under division (B) of section 3701.07 of the Revised Code and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services to meet their needs;
- (3) A member of the general assembly.

~~(FF)~~~~(HH)~~ "Registered nurse" means an individual licensed to practice nursing as a registered nurse under Chapter 4723. of the Revised Code.

~~(GG)~~~~(II)~~ "Resident call system" means a set of devices that are connected electrically, electronically, by radio frequency transmission, or in a like manner that can effectively alert the staff member or members on duty, at the nurses' station or at another point in the nursing unit, of emergencies or resident needs and that can not be deactivated from any location except from where the resident initiated the call.

~~(HH)~~~~(JJ)~~ "Skilled nursing care" means procedures that ~~require~~include technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

- (1) Irrigations, catheterizations, application of dressings, and supervision of special diets and therapeutic diets;
- (2) Objective observation of changes in the resident's condition as a means of analyzing and determining the nursing care ~~required~~necessary and the need for further medical diagnosis and treatment;
- (3) Special procedures contributing to rehabilitation including programs that prevent falls and other incidents that can result in loss of physical function;
- (4) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the resident after receipt of the medication including

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intravenously-administered medication;

(5) Treatments and services to prevent or heal pressure sores, tube feeding management, respiratory and trachea care management, suctioning, and pain management; and

~~(5)~~ (6) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

~~(H)~~ (KK) "Special diet" means a therapeutic diet limited to:

- (1) Nutrient adjusted diets, including high protein, no added salt, and no concentrated sweets;
- (2) Volume adjusted diets, including small, medium, and large portions;
- (3) The use of finger foods or bite-sized pieces for a resident's physical needs; or
- (4) Mechanically altered food.

~~(J)~~ (LL) "Sponsor" means an adult relative, friend, or guardian of a resident who has an interest or responsibility in the resident's welfare.

~~(KK)~~ (MM) "Supervision" means the monitoring of a resident to ensure that the health, safety, and welfare of the resident is protected.

~~(LL)~~ (NN) "Therapeutic diet" means a diet ordered by a health care practitioner:

- (1) As part of the treatment for a disease or clinical condition;
- (2) To modify, eliminate, decrease, or increase certain substances in the diet; or
- (3) To provide mechanically altered food when indicated.

~~(MM)~~ (OO) "Toilet room" means a room or rooms conforming to the Ohio building code, and including a water closet and a lavatory which is located in or adjacent to the room in which the water closet is located.

~~(NN)~~ (PP) "Volunteer" means an individual working in or used by a home who does not receive or expect to receive any form of compensation for services the individual performs other than reimbursement for actual expenses.

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3701-17-02 Application of rules.

- (A) All nursing homes ~~shall~~will comply with rules 3701-17-01 to 3701-17-26 of the Administrative Code and the applicable provisions of Chapter 3721. of the Revised Code.
- (B) Nothing contained in rules 3701-17-01 to 3701-17-26 of the Administrative Code ~~shall~~is to be be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents in any nursing home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination; provided, however, each nursing home ~~shall~~will otherwise comply with rules 3701-17-01 to 3701-17-26 of the Administrative Code, and each resident ~~shall~~will otherwise be provided with the services and care ~~required~~obligated by such rules.

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3701-17-03 Initial, renewal, and change of operator license applications; fees; issuance; revocation; notice.

(A) Initial application: Not less than sixty days before the proposed opening of a nursing home, the operator of a nursing home will submit, on a form prescribed by the director, a completed initial application, and pay the non-refundable application fee specified in section (A) 3721.02 of the Revised Code, with the fee made payable to the "treasurer, state of Ohio" in the form of a check or money order to be deposited in the state treasury to the credit of the general operations fund created by section (A) 3701.83 of the Revised Code. A completed application includes:

- (1) A statement by the applicant of the status of the proposed nursing home under any applicable zoning ordinances or rules, or a statement by the applicant that there is no zoning authority where the proposed home is to be located;
- (2) A statement of financial solvency at the time of initial application, signed by a certified public accountant, on a form provided by the director, showing that the applicant has the financial ability to staff, equip, and operate the nursing home in accordance with Chapter 3721. of the Revised Code, and rules 3701-17-01 to 3701-17-26 of the Administrative Code, and that the applicant has sufficient capital or financial reserve to cover not less than six months operation;
- (3) A statement containing the following information:
 - (a) If the operator is an individual and owner of the business, the individual's name, address, electronic mail address, and telephone number. If the operator of the business is owned by an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity;
 - (b) If the operator does not own the building or buildings or if the operator owns only part of the building or buildings in which the nursing home is housed, the name of each person who has an ownership interest of five per cent or more in the buildings;
 - (c) If the operator does not own the legal rights associated with the ownership and operation of the nursing homes beds, the name of each person who has an ownership interest of five per cent or more in the nursing home beds;
 - (d) The name and address of any nursing home and any facility described in divisions (A)(1)(a) and (A)(1)(c) of section 3721.01 of the Revised Code in which the operator or administrator, or both, have an ownership interest of five per cent or more or with which the operator or administrator have been affiliated with through ownership or employment in the five years prior to the date of the application;
 - (e) The name, business address, electronic mail address, and telephone number of the administrator of the nursing home, if different from the operator;
 - (f) The name, business address, electronic mail address, and telephone number of any management firm or business employed to manage the nursing home;
 - (g) The name and business address of the statutory agent of the operator; and
 - (h) The name and business address of the statutory agent of the owner of the legal rights associated with

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the ownership and operation of the nursing home beds.

(4) Copies of the inspection report of the state fire marshal or a township, municipal, or other legally constituted fire department approved by the state fire marshal, performed within the previous fifteen months, showing zero uncorrected deficiencies; and

(5) Copies of the certificate of use in accordance with paragraph (A) of rule 3701-17-22 of the Administrative Code showing a I-1 or I-2 use group.

Except as provided in paragraph (C) of this rule, the operator or administrator will notify the director, residents and their sponsors or legal representatives, the state long-term care ombudsman, and the regional long-term care ombudsman program, designated under section 173.16 of the Revised Code, serving the area where the home is located, in writing or electronically of any changes in the information contained in this paragraph no later than ten days after the change occurs.

(B) Renewal application: The operator of a nursing home will submit, on a form prescribed by the director, a completed renewal application, and pay the non-refundable application fee specified in section (A) 3721.02 of the Revised Code, with the fee made payable to the "treasurer, state of Ohio" to be deposited in the state treasury to the credit of the general operations fund created by section (A) 3701.83 of the Revised Code. A completed renewal application includes:

(1) Any necessary updates of the information set forth in paragraphs (A)(2) to (A)(4) of this rule; and

(2) Information the director may need to assess whether the operator has violated section 3721.07 of the Revised Code.

(C) Change of operator application: Subject to sections 3721.026, 3721.03, 3721.05, and 3701.07 of the Revised Code, at least sixty days before the proposed assignment or transfer of the license, the operator of a nursing home may, with the approval of the director, assign or transfer the license to operate the home after submitting, on a form prescribed by the director, a completed change of operator application and paying the non-refundable application fee of three thousand and two hundred dollars payable to "Treasurer, State of Ohio." The department will deposit the fee in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. A completed change of operator application includes:

(1) A statement containing the following information:

(a) If the operator is an individual and owner of the business, the individual's name, address, and telephone number. If the operator of the business is owned by an association, corporation, or partnership, the business activity, address, electronic mail address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity;

(b) If the operator does not own the building or buildings or if the operator owns only part of the building or buildings in which the nursing home is housed, the name of each person who has an ownership interest of five per cent or more in the buildings;

(c) If the operator does not own the legal rights associated with the ownership and operation of the nursing homes beds, the name of each person who has an ownership interest of five per cent or more in the nursing home beds;

(d) The name and address of any nursing home and any facility described in divisions (A)(1)(a) and

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(A)(1)(c) of section 3721.01 of the Revised Code in which the operator or administrator, or both, have an ownership interest of five per cent or more or with which the operator or administrator have been affiliated with through ownership or employment in the five years prior to the date of the application;

(e) The name, business address, electronic mail address, and telephone number of the administrator of the nursing home, if different from the operator;

(f) The name, business address, electronic mail address, and telephone number of any management firm or business employed to manage the nursing home;

(g) The name, business address, and telephone number of the statutory agent of the operator;

(h) The name, business address, and telephone number of the statutory agent of the owner of the legal rights associated with the ownership and operation of the nursing home beds; and

(i) Each related party that provides or will provide services to the nursing home, through contracts with any party identified in paragraphs C)(1)(a) to (C)(1)(h) of this rule.

(2) A statement disclosing the direct or indirect ownership interest of each individual identified in paragraph (C)(1) of this section in a current or previously licensed nursing home in this state or another state, including disclosure of whether any of the following occurred with respect to an identified nursing home within the five years immediately proceeding the date of application:

(a) Voluntary or involuntary closure of the nursing home;

(b) Voluntary or involuntary bankruptcy proceedings;

(c) Voluntary or involuntary receivership proceedings;

(d) License suspension, denial, or revocation;

(e) Injunction proceedings initiated by a regulatory agency;

(f) The nursing home is listed in table A, table B, or table D on the centers for medicare and medicaid services special focus facility program list; and

(g) A civil or criminal action was filed against it by a state or federal entity.

(3) Copies of the inspection report of the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal, performed within the previous fifteen months, showing zero uncorrected deficiencies;

(4) Documentation showing that the applicant:

(a) If the applicant is a person who is a direct or indirect owner of fifty per cent or more of the nursing home has at least five years of experience as either of the following:

(i) An administrator of a nursing home located in this state or another state; or

(ii) A direct or indirect owner of at least fifty per cent in either of the following:

(a) An operator of a nursing home located in this state or another state; or

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(b) A manager of a nursing home located in this state or another state.

(b) The applicant provides an attestation that the applicant has plans for quality assurance and risk management for the nursing home;

(c) The applicant provides an attestation that the applicant has general and professional liability insurance coverage that provides coverage of at least one million dollars per occurrence and three million dollars aggregate

(d) Projected financial statements for the nursing home that are prepared by a certified public accountant for the twelve-month period after the assignment or transfer of the operation of the nursing home;

(e) A list of each currently or previously licensed nursing home located in this or another state in which the person has or previously had any percentage of ownership. The percentage of ownership may have been in the operation, real property, or both of the nursing home; and

(f) Except for applications that demonstrate that the applicant owns at least fifty per cent of the nursing home and its assets or at least fifty per cent of the entity that owns the nursing home and its assets the applicant submits evidence of a bond or other financial security reasonably acceptable to the director for an amount not less than the product of the number of licensed beds in the nursing home, as reflected in the application, multiplied by ten thousand dollars.

A change of the majority ownership of a licensed operator is a change of operator for purposes of this paragraph.

(5) The bond or other financial security set forth in paragraph (C)(4) of this rule will be renewed or maintained for five years after the effective date of the change of operator. If the bond or other financial security is not renewed or maintained in accordance with this division, the director will revoke the nursing home operator's license. The bond or other financial security will be released five years after the effective date of the change of operator if none of the events described in paragraph (C)(2) of this rule have occurred.

(D) An applicant for a change of operator is unable to accept the transfer or assignment of a homes' license to operate until the application is deemed complete except for the bill of sale, operations transfer agreement, member substitution agreement, or other document evidencing the transfer or assignment of the license to operate the home. Once the application is deemed complete, the applicant may accept the assignment or transfer of the home's license to operate.

(1) Within five days after acceptance of the assignment or transfer of the license, the applicant is obligated to provide a copy of the completed bill of sale, operations transfer agreement, member substitution agreement, or any other document evidencing the purchase of a home, or the transfer or assignment of the license to operate a home.

(2) If the document(s) presented do not evidence the transfer or assignment of the license to operate a home between the existing operator and the applicant or reveal additional parties not disclosed by the applicant, the director will deny the change of operator application.

(E) The director will conduct a survey of the nursing home not more than sixty days after the effective date of a change of operator license.

(F) The director will deny a change of operator license application if:

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- (1) Any of the requirements of paragraph (C) of this rule are not provided with the license application; or
- (2) The applicant has or had fifty per cent or more direct or indirect ownership in the operator or manager of a current or previously licensed nursing home in this state or another state with respect to which any of the following occurred within the five years immediately preceding the date of application:
 - (a) Involuntary closure of the nursing home by a regulatory agency or voluntary closure in response to licensure or certification action;
 - (b) Voluntary or involuntary bankruptcy proceedings that are not dismissed within sixty days;
 - (c) Voluntary or involuntary receivership proceedings that are not dismissed within sixty days; or
 - (d)) License suspension, denial, or revocation for failure to comply with operating standards.
- (G) An applicant for licensure may appeal the denial of a change of operator license application in accordance with Chapter 119. of the Revised Code.
- (H) An applicant for a change of operator license will notify the director within ten days of any change in the information or documentation submitted in accordance with paragraph (C) of this rule, whether the change occurs before or after the effective date of the change of operator. If an applicant fails to notify the director in accordance with this division, the director will impose a civil penalty of two thousand dollars for each day of noncompliance.
- (I) The director will investigate an allegation that a change of operator has occurred and the entering operator failed to submit an application in accordance with this section or an application was filed but the information was fraudulent. The director may request the attorney general's assistance with an investigation under section 3721.026 of the Revised Code.
- (J) If the director becomes aware, by means of an investigation or otherwise, that a change of operator has occurred and the entering operator failed to submit an application in accordance with this section, or an application was filed but the information provided was fraudulent, the director will impose a civil penalty of two thousand dollars for each day of noncompliance after the date the director becomes aware that the change of operator has occurred. If the entering operator fails to submit an application or new application in accordance with section 3721.026 of the Revised Code, within sixty days of the director becoming aware of the change of operator, the director will begin the process of revoking a nursing home license as specified in section 3721.03 of the Revised Code.
- (K) The existing operator will notify residents and their sponsors of any proposed change of operator at least forty-five days prior to the proposed date of transfer to the new operator.
- (L) If the nursing home alters its physical facilities in a manner that affects bed capacity or proposes to relocate existing beds to a unlicensed portion of the facility, the facility will provide the director with written notice at least sixty days prior to the date the facility wants to commence filling the new beds or relocating existing beds. The nursing home will not use the altered or unlicensed area until the department notifies the facility, in writing, that the alteration or move complies with the applicable provisions of Chapter 3721. of the Revised Code and rules 3701-17-01 to 3701-17-26 of the Administrative Code. The written notice from the facility will be written on company letterhead and include:
 - (1) A floor plan of the area, including beds;

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- (2) The results of the inspection by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the state fire marshal for the area;
- (3) A certificate of occupancy for the area; and
- (4) Either an approved certificate of need or a reviewability determination noting the activity is not reviewable.
- (M) The following persons will notify the director within ten days of commencement of a suit against them, meaning a party suing has filed a written complaint or petition with the clerk of the court, the result of which could be the long-term care facility being placed into receivership:
 - (1) Operator;
 - (2) Owner of the operator or any person who has an ownership interest of five per cent or more in the entity;
 - (3) Owner of the building(s) in which the residential care facility is housed or any person who has an ownership interest of five per cent or more in the entity and
 - (4) Management firm or business employed to manage the residential care facility.
- (N) The director may request additional information at any time which the director determines to be necessary to assess compliance with the applicable criteria, standards, and criteria established by Chapter 3721. of the Revised Code and rules 3701-17-01 to 3701-17-26 of the Administrative Code. The applicant will truthfully respond and submit any additional information requested by the director within sixty days of the director's request unless the director specifies otherwise.
- (O) If the license to operate a home is assigned or transferred to a different person, the new operator is responsible and liable for compliance with any notice of proposed action or order issued under section 3721.08 of the Revised Code prior to the effective date of the assignment or transfer.
- (P) An operator who operates one or more nursing homes in more than one building will obtain a separate license for each building except if such buildings are on the same lot and constitute a single nursing home, such nursing home may be operated under a single license. However, no nursing home will be licensed in the same building as another nursing home.
- (Q) The license will be posted in a conspicuous place in the nursing home.
- (R) Upon the issuance of any order of revocation or denial, the person whose license is revoked or denied may appeal in accordance with Chapter 119. of the Revised Code.
- (S) Once the director notifies a person licensed to operate a home that the license may be revoked or issues any order under section 3721.03 of the Revised Code or under this rule, the person is not allowed to assign or transfer to another person or entity the right to operate that home and the director will not accept a certificate of need application under Chapter 3702. proposing relocation of the long-term care beds at the home. This prohibition will remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person that the prohibition has been lifted.
 - (1) If a license is revoked under this rule section, the former license holder is not allowed to assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or

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transfer to another person or entity is void.

(2) On revocation of a license, the former license holder will take all necessary steps to cease operation of the home.

(T) If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked, the director of health will not issue a license to the person or home at any time. A person whose license is revoked for any reason other than nonpayment of the license renewal fee or late fees is not allowed to apply for a new license under Chapter 3721. of the Revised Code until a period of one year following the date of revocation has elapsed.

(U) When closing a home, the operator will provide the director written notification of closure at least ninety days prior to the proposed closing date. This notice will include:

(1) An address where the operator may be reached after the closing of the home;

(2) A plan for the transfer and adequate relocation of all residents; and

(3) Assurances that the residents will be transferred to the most integrated and appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs, choice, and best interests of each resident.

(V) While providing a written notification of closure under paragraph (O) of this rule, the operator will, in accordance with Chapter 3701-61 of the Administrative Code, also provide written notice of the proposed date of closing of the home to its residents and their sponsors or legal representatives, the state long-term care ombudsmen program, and the regional long-term care ombudsman designated under section 173.16 of the Revised Code, serving the area where the home is located.

(W) Beds in a home that has closed are considered surrendered to the department the three hundred sixty sixth day after the home has closed.

(X) The nursing home will include in all official correspondence with the department pertaining to the home, its name, address, electronic mail address, and Ohio department of health issued license number as it appears on the nursing home license.

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3701-17-03 ~~License fee; application; issuance; revocation.~~

- ~~(A)(A) The operator of a nursing home shall submit an initial application and pay the application fee specified in section 3721.02 of the Revised Code. The initial application and the application fee required under this paragraph shall be submitted to the director and the fee shall be made payable to the "treasurer, state of Ohio" in the form of a check or money order. The department shall deposit the fee in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code, and the fee shall not be refunded.~~
- ~~(B)(B) Every applicant for a license to operate a nursing home shall truthfully and fully complete and submit an application to the director not less than sixty days before the proposed opening of the nursing home. Such application shall be made on a form prescribed and furnished by the director.~~
- ~~(C)(C) The initial application for a license to operate a nursing home shall be accompanied by:~~
- ~~(1)(1) A statement by the applicant of the status of the proposed nursing home under any applicable zoning ordinances or rules, or a statement by the applicant that there is no zoning authority where the proposed home is to be located.~~
- ~~(2)(2) A statement of financial solvency at the time of initial application, on a form prescribed and furnished by the director, showing that the applicant has the financial ability to staff, equip, and operate the nursing home in accordance with Chapter 3721. of the Revised Code, and rules 3701-17-01 to 3701-17-26 of the Administrative Code, and that the applicant has sufficient capital or financial reserve to cover not less than four months' operation.~~
- ~~(3)(3) A statement containing the following information:~~
- ~~(a)(a) If the operator is an individual and owner of the business, the individual's name, address, and telephone number. If the operator of the business is owned by an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity;~~
- ~~(b)(b) If the operator does not own the building or buildings or if the operator owns only part of the building or buildings in which the nursing home is housed, the name of each person who has an ownership interest of five per cent or more in the buildings;~~
- ~~(c)(c) If the operator does not own the legal rights associated with the ownership and operation of the nursing homes beds, the name of each person who has an ownership interest of five per cent or more in the nursing home beds;~~
- ~~(d)(d) The name and address of any nursing home and any facility described in divisions (A)(1)(a) and (A)(1)(c) of section 3721.01 of the Revised Code in which the operator or administrator, or both, have an ownership interest of five per cent or more or with which the operator or administrator have been affiliated with through ownership or employment in the five years prior to the date of the application;~~
- ~~(e)(e) The name, business address and telephone number of the administrator of the nursing home, if different from the operator;~~
- ~~(f)(f) The name, business address and telephone number of any management firm or business employed to manage the nursing home;~~

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~~(g) (g) The name, business address, and telephone number of the statutory agent of the operator; and~~

~~(h) (h) The name, business address, and telephone number of the statutory agent of the owner of the legal rights associated with the ownership and operation of the nursing home beds.~~

~~(4) (4) Copies of the certificate of use required by paragraph (A) of rule 3701-17-22 of the Administrative Code.~~

~~The operator or administrator shall notify the director in writing of any changes in the information contained in this paragraph. The operator or administrator shall provide this notification no later than ten days after the change occurs.~~

~~(D) (D) The operator of a nursing home shall truthfully and fully submit a license renewal application and pay the renewal fee specified in section 3721.02 of the Revised Code. The renewal application and the renewal fee required under this paragraph shall be submitted using an electronic system prescribed by the director. The department shall deposit the fee in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code, and the fee shall not be refunded.~~

~~(E) (E) The renewal application shall:~~

~~(1) (1) Include an update of the information required under paragraphs (C)(2) and (C)(3) of this rule; and~~

~~(2) (2) Provide information the director may require to assess whether the operator has violated section 3721.07 of the Revised Code.~~

~~The operator or administrator shall notify the director in writing of any changes in the information contained in this paragraph. The operator or administrator shall provide this notification no later than ten days after the change occurs.~~

~~(F) (F) The director may request additional information at any time which the director determines to be necessary to assess compliance with the applicable criteria, standards, and requirements established by Chapter 3721. of the Revised Code and rules 3701-17-01 to 3701-17-26 of the Administrative Code. The applicant shall truthfully respond and submit any additional information requested by the director within sixty days of the director's request unless the director specifies otherwise.~~

~~(G) (G) The license to operate a nursing home shall be issued by the director in accordance with Chapter 3721. of the Revised Code, and shall remain in effect until revoked by the director or voided at the request of the applicant; provided, the annual renewal fee is paid during the month of January of each year. Any nursing home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the nursing home's license.~~

~~(H) (H) A license to operate a nursing home is not assignable or transferable and is valid only for the operator and premises named in the application except as otherwise permitted under section 3721.023 of the Revised Code. If ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under section 3721.08 of the Revised Code prior to the effective date of the assignment or transfer.~~

~~(I) (I) An operator who operates one or more nursing homes in more than one building shall obtain a separate license for each building except if such buildings are on the same lot and constitute a single nursing home,~~

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~~such nursing home may be operated under a single license. However, no nursing home shall be licensed in the same building as another nursing home.~~

~~(J)(J) The license shall be posted in a conspicuous place in the nursing home.~~

~~(K)(K) The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded pursuant to Chapter 119. of the Revised Code, that any of the following apply to a person licensed under section 3721.07 of the Revised Code:~~

~~(1)(1) Has violated any of the provisions of Chapter 3721. of the Revised Code or of rules 3701-17-01 to 3701-17-26 of the Administrative Code;~~

~~(2)(2) Has violated any order issued by the director;~~

~~(3)(3) Is not, or any of its principals are not suitable, morally or financially, to operate such an institution;~~

~~(4)(4) Is not furnishing humane, kind, and adequate treatment and care; or~~

~~(5)(5) Has had a long-standing pattern of violations of Chapter 3721. of the Revised Code, of rules 3701-17-01 to 3701-17-26 of the Administrative Code, of Chapter 3701-13 of the Administrative Code, or of Chapter 3701-60 of the Administrative Code that has caused physical, emotional, mental, or psychosocial harm to one or more residents.~~

~~(L)(L) The director may issue an order denying a license in the event the director finds after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, one or more of the following conditions exist:~~

~~(1)(1) The applicant has been convicted of a felony or a crime involving moral turpitude;~~

~~(2)(2) The applicant is violating any of the rules made by the director or any order issued by the director of health;~~

~~(3)(3) The applicant has had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code, other than division (B)(5) of section 3721.03 of the Revised Code, because of any act or omission that jeopardized a resident's health, welfare, or safety;~~

~~(4)(4) The buildings in which the home is housed have not been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code;~~

~~(5)(5) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are not suitable financially and morally to operate a home;~~

~~(6)(6) The applicant is not equipped to furnish humane, kind, and adequate treatment and care;~~

~~(7)(7) The home maintains or contains:~~

~~(a)(a) Facilities for the performance of major surgical procedures;~~

~~(b)(b) Facilities for providing therapeutic radiation;~~

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- ~~(c)-(c) An emergency ward;~~
- ~~(d)-(d) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state; or~~
- ~~(e)-(c) Facilities for radiological examinations unless such examinations are performed only by a person licensed to practice medicine, surgery, or dentistry in this state;~~
- ~~(8)-(8) The home accepts or treats outpatients, except upon the written orders of a physician licensed in this state, maternity cases, boarding children, or houses transient guests, other than participants in an adult day-care program, for twenty-four hours or less; or~~
- ~~(9)-(9) The home is not in compliance with sections 3721.28 and 3721.29 of the Revised Code.~~
- ~~(M)-(M) Upon the issuance of any order of revocation or denial, the person whose license is revoked or denied may appeal in accordance with Chapter 119. of the Revised Code.~~
- ~~(N)-(N) Once the director notifies a person licensed to operate a home that the license may be revoked or issues any order under section 3721.03 of the Revised Code or under this rule, the person shall not assign or transfer to another person or entity the right to operate that home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person that the prohibition has been lifted.~~
- ~~(1)-(1) If a license is revoked under this rule section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.~~
- ~~(2)-(2) On revocation of a license, the former license holder shall take all necessary steps to cease operation of the home.~~
- ~~(O)-(O) If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked for any reason other than nonpayment of the license renewal fee or late fees may not apply for a new license under Chapter 3721. of the Revised Code until a period of one year following the date of revocation has elapsed.~~
- ~~(P)-(P) When closing a home, the operator shall provide the director written notification of closure at least ninety days prior to the proposed closing date. This notice shall include:~~
 - ~~(1)-(1) An address where the operator may be reached after the closing of the home;~~
 - ~~(2)-(2) A plan for the transfer and adequate relocation of all residents; and~~
 - ~~(3)-(3) Assurances that the residents will be transferred to the most integrated and appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs, choice, and best interests of each resident.~~
- ~~(Q)-(Q) While providing a written notification of closure under paragraph (O) of this rule, the operator shall, in accordance with Chapter 3701-61 of the Administrative Code, also provide written notice of the proposed date of closing of the home to its residents and their sponsors or legal representatives and the regional long-term care ombudsperson program, designated under section 173.16 of the Revised Code, serving the~~

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~~area where the home is located.~~

~~(R)(R) The nursing home shall include in all official correspondence with the department pertaining to the home, its name, address and license number as it appears on the nursing home license.~~

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3701-17-03.1 Expedited initial licensure inspections.

- (A) An applicant for licensure as a nursing home may request an expedited initial licensure inspection by providing the department of health with all of the following:
- (1) A complete initial nursing home application and fee ~~required as set forth in~~by paragraph (A) of rule 3701-17-03 of the Administrative Code:
 - (a) An application will be deemed complete when the department verifies all information contained therein is complete and accurate and meets the ~~requirements of~~criteria set forth in paragraphs (B) and (C) of rule 3701-17-03 of the Administrative Code;
 - (b) An applicant may elect an expedited licensure inspection on the initial nursing home application and, if electing such an inspection, provide a fee in addition to that ~~required~~obligated by paragraph (A) of rule 3701-17-03 of the Administrative Code, in the amount of two thousand two hundred fifty dollars;
 - (c) ~~A~~Any fee collected by the department ~~shall~~will be deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code, and the fee ~~shall~~will not be refunded;
 - (2) Certificate of need confirmation that all certificate of need ~~requirements~~criteria are met, as applicable; and
 - (3) Notice of readiness for inspection.
- (B) Upon receipt of a completed request for expedited initial inspection made pursuant to paragraph (A) of this rule, the department will commence an inspection of the nursing home not later than ten business days. Inspections under this rule will be scheduled in the order in which the request for expedited initial licensure inspection is determined to be complete.
- (C) If the nursing home does not meet the ~~requirements~~standards for licensure upon the initial licensure inspection requested under paragraph (B) of this rule, the department of health may deny the license.
- (D) This rule applies only to applicants for licensure as a new nursing home and does not apply to an existing licensed nursing home.

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3701-17-03.2 Change of operator fee.

The fee for a change of operator license application submitted in accordance with rule 3701-17-03 of this chapter is three thousand two hundred dollars.

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3701-17-04 Type and number of residents in home; beds.

- (A) The director ~~shall~~will determine the type and number of residents a nursing home can accommodate which ~~shall~~will ~~establish~~ ~~be~~ the authorized maximum licensed capacity of a nursing home. Such determination ~~shall~~will be made on the basis of the physical facilities, personnel of the nursing home and the services and care needed by the residents to be admitted or retained in the nursing home, and the permitted occupancy approved by the department of commerce.
- (B) In determining the number of residents in a nursing home for the purpose of licensing, the director ~~shall~~will consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:
- (1) The home is both a nursing home and ~~an adult care~~ a residential facility as defined in paragraph (A)(42) of rule 5122-30-03 of the Administrative Code. In that case, all individuals in the part or unit licensed as a nursing home ~~shall~~will be considered as one group and all the individuals in the part or unit licensed as ~~an adult care~~ a residential facility ~~shall~~will be considered as another group;
 - (2) The home maintains, in addition to a nursing home, a separate and discrete part or unit that provides accommodations to individuals who do not ~~require~~ need or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit ~~shall~~will not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the ~~requirements~~ standards of this division;
 - (3) The home provides an adult day care program on the same site as the home, in which case the participants ~~shall~~will not be considered in determining the number of residents in the home if, except as otherwise permitted in rules 3701-17-01 to 3701-17-26 of the Administrative Code, the program is operated in a separate area which is not part of the licensed home.
- (C) If the nursing home alters its physical facilities in a manner that proposes to move existing beds to an area of the home not previously used for this purpose or proposes to add new beds, the home ~~shall~~will notify the director, in writing, at least sixty days prior to the date the home wants to commence filling the new beds or moving existing beds. The home ~~shall~~will not commence filling the new beds or moving existing beds until the director notifies the home, in writing, that the alteration or move complies with the applicable provisions of Chapter 3721. of the Revised Code and rules 3701-17-01 to 3701-17-26 of the Administrative Code.

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3701-17-05 Prohibitions.

- (A) No nursing home, except a nursing home that is owned and operated by, and physically part of, a hospital registered under section 3701.07 of the Revised Code, may use the word "hospital" in its name or letterhead.
- (B) No applicant for a license to operate a nursing home ~~shall~~ is authorized to accept more than two residents, who ~~require~~ are in need of skilled nursing care or personal care services, before receiving a license.
- (C) No operator, administrator, employee, or other person ~~shall~~ will:
- (1) Interfere with the inspection of a licensed nursing home by any state or local official who is performing duties required by Chapter 3721. of the Revised Code. All licensed nursing homes shall be open for inspection. As used in this paragraph, "interfere" means to obstruct directly or indirectly any individual conducting an authorized inspection from carrying out his or her prescribed duties. Interference includes, but is not limited to: ~~harassment, intimidation, delay of access to premises or records, and refusal to permit the director or his authorized representative upon presentation of official department identification, for the purpose of inspecting or investigating the operation of a nursing home, to enter and inspect at any time a building or premise where a home is located, or to enter and inspect records which are kept concerning the operation of the home for information pertinent to the legitimate interest of the department including, but not limited to, the records and reports required by rule 3701-17-19 of the Administrative Code.~~
 - (a) Harassment;
 - (b) Intimidation;
 - (c) Delay of access to premises or records, including electronic and video records; and
 - (d) Refusal to permit the director or his authorized representative upon presentation of official department identification, for the purpose of inspecting or investigating the operation of a nursing home:
 - (i) To enter and inspect at any time, a building or premise where a home is located; or
 - (ii) To enter and inspect records which are kept concerning the operation of the home for information pertinent to the legitimate interest of the department including, but not limited to, the records and reports set forth in rule 3701-17-19 of the Administrative Code.
 - (2) Use profane or abusive language directed at or in the presence of residents or the director or his authorized representatives.
 - (3) Exceed the nursing home's authorized maximum licensed capacity.
 - (4) Knowingly falsify records, or misrepresent information to the director.
 - (5) Allow transient guests to remain in a licensed part of a home for more than thirty-six hours in any seventy-two hour period. Accommodations for transient guests may be provided in an area or areas outside the licensed part of a home.
- (D) For purposes of this rule, "transient guest" means an individual, whether related to a resident or staff member

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or not, who stays in a home. "Transient guest" does not include an individual who stays in a home for a period of time not exceeding fourteen days and is:

- (1) Admitted to the home for short term respite care;
- (2) Staying with a resident upon admission to the home; or
- (3) Staying with a resident receiving end-of-life care.

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3701-17-06 Responsibility of operator and nursing home administrator; quality assurance and performance improvement.

(A) The operator is responsible for:

- (1) Operation of the nursing home;
- (2) Payment of the annual license renewal fee to the director;
- (3) Submission of ~~such~~ reports ~~as may be required~~, using an electronic system prescribed by the director, including the immediate reporting of the following: real, alleged, or suspected abuse, neglect, or misappropriation; and
 - (a) Real, alleged, or suspected abuse, neglect, or misappropriation;
 - (b) Elopement of a resident as defined in paragraph (J) of rule 3701-17-01 of the Administrative Code;
 - (c) The operator is subject to cash on delivery requirements by any vendors or vendor-initiated contract or delivery cancellations due to non-payment or delinquency;
 - (d) Non-payment or delinquent payment of federal, state, or local taxes; and
 - ~~(d)~~ (e) Inadequate food, medical, durable medical equipment, incontinence, respiratory or pharmaceutical supplies at the nursing home.
- (4) Compliance with Chapter 3721. of the Revised Code, Chapters 3701-13 and 3701-61, and rules 3701-17-01 to 3701-17-26 of the Administrative Code, and all federal, state, and local laws applicable to the operation of a nursing home.

(B) Each operator ~~shall~~ will appoint an administrator. The administrator is responsible for:

- (1) Daily operation of the nursing home in accordance with rules 3701-17-01 to 3701-17-26 of the Administrative Code;
- (2) Implementation of the provisions of section 3721.12 of the Revised Code, including the development of policies and procedure that ensure the rights of residents are not violated;
- (3) Ensuring that individuals used by the home are competent to perform their job responsibilities and that services are provided in accordance with acceptable standards of practice; ~~and~~
- (4) Notifying the department of any of the following:
 - (a) Interruption of essential services or a notice of potential interruption of essential services, due to lack of payment. Essential services include, but are not limited to, therapy, phone, internet service provider, a utility, food delivery, fire alarm monitoring, and maintenance contracts;
 - (b) Inadequate staffing, meaning the nursing home does not have enough staff available to meet the needs of residents based on the acuity and/or number residents as per the facility's assessment; and
 - (c) A known change in the control, ownership or operator of the facility or a change in the company to which the administrator reports.

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~~(4)~~(5) If the nursing home is physically part of a hospital, inform a prospective resident, prior to admission, that the home is licensed as a nursing home and is not part of the acute care service of the hospital.

(C) Each nursing home ~~shall~~will establish and maintain an ongoing quality assurance and performance improvement (QAPI) program to address all systems of care and management practices, including clinical care, quality of life, and resident choice. As part of the QAPI program, each home ~~shall~~will, at minimum:

(1) Ensure the involvement of the following personnel in the QAPI program as appropriate:

(a) Medical director;

(b) Nursing Home administrator;

(c) Director of nursing;

(d) Activities director;

(e) Social services director;

(f) Dietary manager;

(g) Infection control coordinator;

(h) A representative from the nursing home's contracted pharmacy;

(i) A representative from the nursing home's nurse aides staff; and

(j) The resident council president or their designee.

(2) Establish an effective system to obtain and use feedback and input from residents and resident representatives on an ongoing basis and communicate QAPI priorities with the resident council on a regular basis.

~~(1)~~(3) Establish a quality assurance committee that ~~shall~~will meet on an ongoing basis, but at least quarterly to systematically:

(a) Monitor and evaluate the quality of care and quality of life provided in the home;

(b) {Enter paragraph text here}

~~(b)~~(c) Track, conduct a root cause analysis, investigate, and monitor incidents, accidents, and events that have occurred in the home;

~~(e)~~(d) Track and monitor the effectiveness of the infection control program;

~~(d)~~(e) Identify problems and trends; and

~~(e)~~(f) Develop and implement appropriate action plans to correct identified problems; and

~~(2)~~(2) ~~Participate in at least one quality improvement project every two years from those approved by the department of aging through the nursing home quality initiative established under section 173.60 of the Revised Code.~~

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- (D) The records of meetings of the quality assurance committee ~~by this rule~~ are not ~~required~~subject to be ~~disclosed~~disclosure to the director. The nursing home ~~shall~~will document, and the director shall verify through interviews with committee members and, as necessary, direct care staff, that:
- (1) The home has a quality assurance committee which addresses quality concerns;
 - (2) Staff know how to access that process; and
 - (3) The committee has established a protocol or method for addressing specific quality problems in the nursing home that the home believes to have now been resolved.
- (E) Good faith attempts by the committee to identify and correct quality deficiencies will not be used as a basis for sanctions.
- (F) The administrator is obligated to ensure that the nursing home participate in at least one quality improvement project every two years from those approved by the department of aging through the nursing home quality initiative established under section 173.60 of the Revised Code.

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3701-17-07 Qualifications and health of personnel.

- (A) Every nursing home administrator ~~shall~~will be licensed pursuant to Chapter 4751. of the Revised Code, unless specifically exempted from licensing under that chapter.
- (B) No person with a disease which may be transmitted in the performance of the person's job responsibilities ~~shall~~will work in a nursing home during the stage of communicability unless the person is given duties that minimize the likelihood of transmission and follows infection control precautions and procedures.
- (C) No person ~~shall~~is allowed to work in a nursing home under either of the following circumstances:
- (1) Under the influence of alcohol, intoxicants or illegal drugs; or
 - (2) When the person is using medications to the extent that the use adversely affects the performance of ~~his or her~~their duties or the health or safety of any resident of the home.
- (D) No individual ~~shall~~is allowed to work in a nursing home in any capacity for ten or more hours in any thirty-day period unless the individual has been examined within thirty days before commencing work, or on the first day of work, by a physician or other licensed health professional acting within their applicable scope of practice and certified as medically capable of performing ~~his or her~~their prescribed duties. Operators ~~shall~~will retain documentation evidencing compliance with this paragraph and ~~shall~~ furnish such documentation to the director upon request. This paragraph does not apply to volunteers.
- (E) Employees of temporary employment services or, to the extent applicable, paid consultants working in a nursing home, ~~shall~~will have medical examinations in accordance with paragraph (D) of this rule, except that a new medical certification is not ~~required~~obligated for each new assignment. Each nursing home in which such an individual works ~~shall~~will obtain verification of the medical certification result, as applicable, from the employment agency or consultant before the individual begins work and ~~shall~~ maintain this documentation on file.
- (F) Individuals used by an adult day care program provided by and on the same site as the nursing home ~~shall~~will have medical examinations in accordance with paragraph (D) of this rule if the adult day care program is located or shares space within the same building as the nursing home or if there is a sharing of staff between the nursing home and adult day care program.
- (G) The individual ~~required~~responsible for the comprehensive activities program set forth in~~by~~ paragraph (A) of rule 3701-17-09 of the Administrative Code to direct the activities program ~~shall~~will meet one of the following qualifications:
- (1) Has two years of experience in a social or recreational program within the five years preceding the date of hire, one year of which was full-time in a resident activities program in a health care setting;
 - (2) Is licensed as an occupational therapist under Chapter 4755. of the Revised Code;
 - (3) Is licensed as an occupational therapy assistant under Chapter 4755. of the Revised Code;

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- (4) Is certified by a nationally recognized accrediting body as a therapeutic recreation specialist or activities professional; or
 - (5) Has successfully completed training covering activities programming from a technical or vocational school, college, university, or other educational institution, and has one year of experience in recreational or activities services. Training may also be provided by an out-of-state provider certified in the state in which the provider is located to offer technical or vocational programs or to offer degrees and college credits. For individuals hired after April 18, 2002, the minimum amount of training needed to meet this requirement ~~shall~~is ~~be~~ ninety hours.
- (H) A food service manager designated pursuant to paragraph (K) of rule 3701-17-18 of the Administrative Code who has supervisory and management responsibility and the authority to direct and control food preparation and service ~~shall~~will obtain the level two certification in food protection according to rule 3701-21-25 of the Administrative Code.
- (I) All individuals used by the nursing home who function in a professional capacity ~~shall~~will meet the standards applicable to that profession, including but not limited to, possessing a current Ohio license, registration, or certification, if ~~required~~mandated by law.
- (J) The operator or administrator ~~shall~~will ensure that each staff member, consultant and volunteer used by the nursing home receives orientation and training to the extent necessary to perform their job responsibilities prior to commencing such job responsibilities independently. ~~The orientation and training shall include that~~ includes appropriate orientation and training about residents rights, person-centered care, the physical layout of the nursing home, the applicable job responsibilities, the home's policies and procedures applicable to assuring safe and appropriate resident care, infection control, emergency assistance procedures, and the disaster preparedness plan.
- (K) No nursing home ~~shall~~is allowed to employ a person who applies for a position that involves the provision of direct care to an older adult, if the person:
- (1) Has been convicted of or pleaded guilty to an offense listed in division (C)(1) of section 3721.121 of the Revised Code, unless the individual is hired under the personal character standards set forth in rule 3701-13-06 of the Administrative Code;
 - (2) Fails to complete the form(s) or provide fingerprint impressions ~~as required by~~ in accordance with division (B)(3) of section 3721.121 of the Revised Code;
 - (3) Is the subject of a finding of abuse or neglect of a resident or misappropriation of the property of a resident on the nurse aide registry, established pursuant to section 3721.32 of the Revised Code;
 - (4) Is the subject of a finding of abuse or neglect of a resident or misappropriation of the property of a resident on the nurse aide registry established by another state where the home believes or has reason to believe the person resides or resided; or
 - (5) Has had a disciplinary action currently in effect taken against a professional license by a state licensure body ~~as a result of a finding of abuse, neglect, mistreatment of residents or misappropriation of resident~~

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3701-17-07.1 Required training and competency evaluation for nurse aides working in long-term care facilities.

(A) For the purposes of this rule:

- (1) "Competency evaluation program" means a program 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.
- (2) "Licensed health professional" means all of the following:
 - (a) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (b) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (c) A physician as defined in section 4730.01 of the Revised Code;
 - (d) A physician's assistant for whom a physician holds a valid certificate of registration issued under section 4730.04 of the Revised Code;
 - (e) A registered nurse, including those authorized to practice in an advance practice role, or a licensed practical nurse licensed under Chapter 4723. of the Revised Code;
 - (f) A social worker or independent social worker licensed, or social work assistant certified under Chapter 4757. of the Revised Code;
 - (g) A speech pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
 - (h) A dentist or a dental hygienist licensed under Chapter 4715. of the Revised Code;
 - (i) An optometrist licensed under Chapter 4725. of the Revised Code;
 - (j) A pharmacist licensed under Chapter 4729. of the Revised Code;
 - (k) A psychologist licensed under Chapter 4732. of the Revised Code;
 - (l) A chiropractor licensed under Chapter 4734. of the Revised Code;
 - (m) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;
 - (n) A dietitian licensed under Chapter 4759. of the Revised Code;
 - (o) A respiratory care professional licensed under Chapter 4761. of the Revised Code; and
 - (p) A massage therapist licensed under section 4731.17 of the Revised Code.
- (3) "Long-term care facility" or "facility" means either of the following:
 - (a) 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 under Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; or

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- (b) 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.
- (4) "Nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, other than a licensed health professional practicing within the scope of his or her license or an individual who provides nursing or nursing-related services as a volunteer without monetary compensation.
- (5) "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 residents, and providing personal care services and activities delegated by a nurse which may include implementation of portions of the nursing regimen, as defined in 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 delegated 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. Nursing and nursing-related services" does not include assisting residents with feeding when performed by a dining assistant pursuant to rule 3701-17-07.2 of the Administrative Code.
- (6) To "use an individual as a nurse aide" means to engage the individual to perform nursing and nursing-related services in and on behalf of a long-term care facility.
- (7) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code.
- (B) No long-term care facility ~~shall~~is allowed to use an individual as a nurse aide for more than four months unless the individual is competent to provide the services he or she is to provide; the facility has received from the nurse aide registry, established under section 3721.32 of the Revised Code, the information concerning the individual provided through the registry; and one of the following is the case:
- (1) The individual was used by a facility as a nurse aide on a full-time, temporary, per diem, or other basis at any time during the period commencing July 1, 1989, and ending January 1, 1990, and successfully completed, not later than October 1, 1990, a competency evaluation program conducted under former rule 3701-18-07 of the Administrative Code, in effect prior to October 1, 1990;
- (2) The individual either has successfully completed a training and competency evaluation program or has satisfied the requirements of paragraphs (B)(2)(a) and (B)(2)(b) of this rule and, in either case, also has completed successfully the competency evaluation program. An individual ~~shall~~will be considered to have satisfied the requirement of having successfully completed a training and competency evaluation program if the individual meets both of the following:
- (a) The individual, as of July 1, 1989, completed at least sixty hours divided between skills training and classroom instruction in the topic areas described in divisions (B)(1) to (B)(8) of section 3721.30 of the Revised Code; and

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- (b) The individual received, as of that date, at least the difference between seventy-five hours and the number of hours actually spent in training and competency evaluation in supervised practical nurse aide training or regular in-service nurse aide education. For an individual to satisfy the requirements of this paragraph, the combination of skills training, classroom instruction, supervised practical nurse aide training and in-service nurse aide education ~~shall~~will have addressed the topic areas and subject matter components prescribed by former rule 3701-18-07 of the Administrative Code and its appendix in effect at the time of the determination.
- (3) Prior to July 1, 1989, if the long-term care facility is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or prior to January 1, 1990, if the facility is not so certified, the individual completed a program that the director determines included a competency evaluation component no less stringent than the competency evaluation program conducted under former rule 3701-18-07 of the Administrative Code in effect at the time of the determination and was otherwise comparable to approved training and competency evaluation programs;
- (4) The individual is listed in a nurse aide registry maintained by another state and that state certifies that its program for training and evaluation of competency of nurse aides complies with Titles XVIII and XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and regulations adopted thereunder;
- (5) Prior to July 1, 1989, the individual was found competent to serve as a nurse aide after the completion of a course of nurse aide training of at least one hundred hours' duration. The determination of competency ~~shall~~will have been made by the director or by an instructor of the course of nurse aide training;
- (6) The individual is enrolled in a prelicensure program of nursing education approved by the board of nursing or by an agency of another state that regulates nursing education, has provided the long-term care facility with a certificate from the program indicating that the individual has successfully completed the courses that teach basic nursing skills including infection control, safety and emergency procedures and personal care, and has successfully completed the competency evaluation program; or
- (7) The individual has the equivalent of twelve months or more of full-time employment in the preceding five years as a hospital aide or orderly and has successfully completed a competency evaluation program.

Before allowing an individual to serve as a nurse aide for more than four months in accordance with this paragraph, a facility ~~shall~~will ~~conduct a receive~~ registry verification that the individual has met the competency requirements under this paragraph unless the individual can prove that he or she has recently met the requirements and has not yet been listed on the registry. In the event that an individual has not yet been listed on the registry, facilities ~~shall~~will follow up by contacting the nurse aide registry to ensure that such an individual actually becomes listed on the registry. Once the facility receives written registry verification, it ~~shall~~will maintain such verification on file.

- (C) During the four month period provided for in paragraph (B) of this rule, during which a long-term care facility may, subject to paragraph (H) of this rule, use as a nurse aide an individual who does not have the qualifications specified in paragraphs (B)(1) to (B)(7) of this rule, a facility ~~shall~~will require the individual to participate in one of the following:

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- (1) If the individual has successfully completed a training and competency evaluation program, a competency evaluation program conducted by the director;
 - (2) If the individual is enrolled in a prelicensure program of nursing education described in paragraph (B)(6) of this rule, and has completed or is working toward completion of the courses described in that paragraph, or the individual has the experience described in paragraph (B)(7) of this rule, a competency evaluation program; or
 - (3) A training and competency evaluation program and the competency evaluation program.
- (D) No long-term care facility ~~shall~~is allowed to continue ~~for longer than four months~~ to use as a nurse aide for longer than four months, an individual who previously met the requirements of paragraph (B) of this rule but since most recently doing so has not performed nursing and nursing-related services for monetary compensation for twenty-four consecutive months, unless the individual successfully completes additional training and competency evaluation by complying with paragraphs (D)(1) and (D)(2) of this rule:
- (1) Doing one of the following:
 - (a) Successfully completing a training and competency evaluation program;
 - (b) Successfully completing a training and competency evaluation program described in paragraph (B)(4) of this rule; or
 - (c) Meeting the requirements specified in paragraph (B)(6) or (B)(7) of this rule; and
 - (2) In the case of an individual who is described in paragraph (D)(1)(a) or (D)(1)(c) of this rule, successfully completing the competency evaluation program.
- (E) During the four-month period provided for in paragraph (D) of this rule during which a long-term care facility may, subject to paragraph (H) of this rule, use as a nurse aide an individual who does not have the qualifications specified in paragraphs (D)(1) and (D)(2) of this rule, a facility ~~shall~~will require the individual to participate in one of the following:
- (1) If the individual has successfully completed a training and competency evaluation program, a competency evaluation program conducted by the director;
 - (2) If the individual is enrolled in a prelicensure program of nursing education described in paragraph (B)(6) of this rule and has completed or is working toward completion of the courses described in that paragraph or the individual has the experience described in paragraph (B)(7) of this rule, a competency evaluation program; or
 - (3) A training and competency evaluation program and, in addition, a competency evaluation program.
- (F) For the purposes of paragraphs (C) and (E) of this rule, an individual ~~shall~~will be considered to be participating in a training and competency evaluation program or a competency evaluation program, as applicable, if, at minimum, the individual has a document signed by a representative of the program attesting that the individual is scheduled to attend the program.
- (G) The four month periods provided for in paragraphs (B) and (D) of this rule include any time, on or after June

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1, 1990, that an individual is used as a nurse aide on a full time, temporary, per diem or other basis by the facility or any other long-term care facility.

(H) A long-term care facility ~~shall is~~ not allowed to permit an individual used by the facility as a nurse aide while participating in a training and competency evaluation program to provide nursing and nursing-related services unless both of the following are the case:

- (1) The individual has completed the number of hours of training that ~~he or she~~ they must are mandated to complete prior to providing services to residents as prescribed by paragraph (A)(4) of rule 3701-18-05 of the Administrative Code through the program in which the individual is enrolled; and
- (2) The individual is under the personal supervision of a registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code.

An individual used by a long-term care facility as a nurse aide while participating in a training and competency evaluation program ~~shall will~~ wear a name pin at all times that clearly indicates that the individual is a trainee. As used in this paragraph, "personal supervision" means being present physically on the floor where the individual is providing services, being available at all times to respond to requests for assistance from the individual, and being within a distance which allows the nurse periodically to observe the individual providing services.

(I) No long-term care facility ~~shall is~~ allowed to impose on a nurse aide any charge for participation in any competency evaluation program or training and competency evaluation program, including any charge for textbooks, other required course materials or a competency evaluation.

(J) No long-term care facility ~~shall require is~~ allowed to mandate that an individual used by the facility as a nurse aide or seeking employment as a nurse aide pay or repay, either before or while the individual is employed by the facility or when the individual leaves the facility's employ, any costs associated with the individual's participation in a competency evaluation program or training and competency evaluation program.

(K) In addition to competency evaluation programs and training and competency evaluation programs required by this rule, each long-term care facility ~~shall will~~ provide all of the following to each nurse aide it uses:

- (1) An orientation program that includes at least an explanation of the organizational structure of the facility, its policies and procedures, its philosophy of care, principles of person-centered care, a description of its resident population, and an enumeration of its employee rules. The orientation program ~~shall will~~ be of sufficient duration to cover the topics enumerated in this paragraph adequately in light of the size and nature of the facility, its resident population, and the anticipated length of employment of the nurse aide. The orientation program for nurse aides permanently employed by the long-term care facility ~~shall will~~ be at least three hundred and sixty minutes in length to occur during the first forty hours worked, with one hundred and eighty minutes occurring before the nurse aide has any resident contact;
- (2) Regular performance review to assure that individuals working in the facility as nurse aides are competent to perform the nursing and nursing-related services they perform. Performance reviews ~~shall will~~ be conducted at least ninety days after the nurse aide completes successfully the competency evaluation

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program or commences work in the facility and annually thereafter. The performance review ~~shall~~will be conducted by the aide's immediate supervisor or a nurse designated by the facility to conduct the performance evaluations and consist, at minimum, of an evaluation of the nurse aide's working knowledge, application of the principles of person-centered care, and clinical performance. The facility ~~shall~~will maintain a written record of each performance review; and

- (3) Regular in-service education, both in groups and, as necessary in specific situations, on a one-to-one basis, based on the outcome of performance reviews required by paragraph (K)(2)(a) of this rule. For the purposes of this provision, "specialty unit" means a discrete part of the nursing home that houses residents who have common specialized care needs, including, but not limited to, dementia care, hospice care, or mental health care units.
 - (a) Formal in-service education ~~shall include~~including an instructional presentation and may include skills demonstration with return demonstration and in-service training. In-service training may be provided on the unit as long as it is directed toward skills improvement, is provided by trained individuals and is documented.
 - (b) In-service education ~~shall be~~ sufficient to ensure the continuing competence of nurse aides and address areas of weakness as determined in nurse aides' performance reviews and ~~shall~~ address the assessed needs of residents as determined by their care plan. It also shall include, but is not limited to, training for nurse aides providing nursing and nursing-related services to residents with cognitive impairment. The in-service education for nurse aides working in specialty units shall address the assessed needs of the residents in the unit.
 - (c) The facility ~~shall~~will assure that each nurse aide receives at least twelve hours of formal in-service education each year. In-service education may be obtained through web-based training programs. For purposes of this paragraph, the year within which a nurse aide ~~must~~will receive continuing education is calculated based on the commencement of employment.
 - (d) The facility ~~shall~~will maintain a written record of each formal in-service session ~~which shall include~~including a description of the subject matter, the identity of the individual or individuals providing the in-service education, a list of the nurse aides and other individuals attending the session that is signed by each attendee and the duration of the session.
- (4) In addition to the requirements of this paragraph, a nursing home that holds itself out as providing specialty care to residents ~~shall~~will ensure each nurse aide who provides specialty care receives sufficient additional hours of training each year to ensure competency and to meet the individual needs of the residents. For purposes of this paragraph, a nursing home or part thereof is considered to "hold itself out as providing specialty care" when it advertises the home provides specialty care, represents to the department or the public that it provides specialty care, or admits ten or more individuals with common specialized care needs. "Specialty care" includes, but is not limited to, dementia care, behavioral care, mental health care, or hospice care.

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3701-17-07.2 Dining assistants.

(A) For purposes of this rule:

- (1) "Long term care facility" has the same meaning as in rule 3701-17-07.1 of the Administrative Code.
- (2) "Dining assistant" means an individual who meets the ~~requirements~~ standards specified in this rule and who is paid to feed long term care facility residents by a long term care facility or who is used under an arrangement with another agency or organization.
- (3) "Supervision" means that the nurse is in the unit where the feeding assistance is furnished and is immediately available to provide help in an emergency.
- (4) "Suspension of approval" means that a dining assistant training course is ~~prohibited from providing~~ not authorized to provide training to individuals under this rule until the suspension is lifted pursuant to paragraph (K) of this rule.
- (5) "Training and competency evaluation program" has the same meaning as in rule 3701-17-07.1 of the Administrative Code.
- (6) "Withdrawal of approval" means that a dining assistant training course is no longer eligible to provide training under this rule, but does not ~~prohibit~~ prevent the submission of a new application for approval.

(B) A long term care facility may use dining assistants to feed residents who, based on the charge nurse's assessment of the resident and the most recent resident assessment performed pursuant to rule 3701-17-10 of the Administrative Code and plan of care developed pursuant to rule 3701-17-14 of the Administrative Code, meet the following conditions:

- (1) Need assistance or encouragement with eating and drinking;
- (2) Do not have a complicated feeding problem, such as the need for tube or parenteral feeding, recurrent lung aspirations or difficulty swallowing that ~~requires~~ necessitates assistance with eating and drinking by a registered nurse, licensed practical nurse, or nurse aide.

(C) If a facility uses a dining assistant the facility ~~must~~ will ensure that the dining assistant meets the following ~~requirements~~ criteria:

- (1) Except as provided in paragraph (D) of this rule, has successfully completed a dining assistant training course approved by the director as specified in paragraph (G) of this rule;
- (2) Is not the subject of a finding of abuse or neglect of a resident or misappropriation of the property of a resident on the nurse aide registry, established pursuant to section 3721.32 of the Revised Code; and
- (3) Performs duties only for residents who do not have a complicated feeding problem, and under the supervision of a registered nurse or licensed practical nurse.

(D) A person who has successfully completed a training course for dining assistants and has not worked in a long term care facility as a dining assistant for a period of twelve consecutive months ~~shall~~ is not allowed to be used as a dining assistant in a long term care facility until the person successfully retakes the training course.

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The facility ~~must~~will maintain a record of all individuals, used by the facility as dining assistants.

- (E) The training course for dining assistants ~~shall~~will provide a combined total of at least nine hours of instruction, including a one hour clinical portion. The eight hours of didactic instruction may be presented online with the instructor being present at the end of the class for discussion and questions. The clinical portion ~~shall~~will be provided for no more than eight participants at one time. The training course ~~shall~~will follow the curriculum specified in the appendix attached to this rule and address the following topics:
- (1) Feeding techniques;
 - (2) Assistance with feeding and hydration, including the use of assistive devices;
 - (3) Communication and interpersonal skills;
 - (4) Appropriate responses to resident behavior;
 - (5) Safety and emergency procedures, including the ~~Heimlich maneuver~~abdominal thrust;
 - (6) Infection control;
 - (7) Residents rights;
 - (8) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting those changes to the supervisory nurse;
 - (9) Special diets and therapeutic diets;
 - (10) Documentation of type and amount of food intake; and
 - (11) Meal observation and actual feeding assistance to a resident.
- (F) The instructor or instructors for a dining assistant course ~~shall~~will have appropriate experience and one of the following qualifications:
- (1) A current valid license issued under Chapter 4723. of the Revised Code to practice as a nurse, ~~as defined in paragraph (R) of rule 3701-17-01 of the Administrative Code~~;
 - (2) A current valid license issued under Chapter 4759. of the Revised Code to practice as a dietitian.
 - (3) A current valid license issued under Chapter 4753. of the Revised Code to practice as a speech-language pathologist; or
 - (4) A current valid license issued under Chapter 4755. of the Revised Code to practice as an occupational therapist.
- (G) A long term care facility, employee organization, person, governmental entity, or a training and competency evaluation program seeking approval of a dining assistant training course ~~shall~~will make an application to the director on a form prescribed by the director and ~~shall~~ provide any documentation or additional information requested by the director. ~~The~~ A complete application ~~shall include~~includes:

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- (1) An attestation that the information contained in the curriculum attached as appendix A of this rule is understood and will be adhered to; and
 - (2) The name and documentation of the qualifications of the instructor or instructors, as specified in paragraph (F) of this rule.
- (H) The director ~~shall~~will approve an application of a dining assistant training course that demonstrates compliance with the ~~requirements~~standards of this rule and, if the course is operated by or in a long term care facility, the facility is not the subject of an action listed in paragraph (I)(2) of this rule. An approved dining assistant training course is not ~~required~~necessary to renew an approval provided that the director is notified of any changes to the information provided in the original application.
- (I) The director may suspend or withdraw approval of a dining assistant training course if at least one of the following applies:
- (1) The course is not operated in compliance with this rule; or
 - (2) The course is operated by or in a long term care facility and one the following applies;
 - (a) The director has notified the facility of a real and present danger under section 3721.08 of the Revised code;
 - (b) An action has been taken against the facility under section 5165.77 of the Revised Code; or
 - (c) The license of the facility is revoked under section 3721.03 of the Revised Code.
- (J) Suspension or withdrawal of approval is not subject to appeal. If the director determines that one of the criteria listed in paragraph (I) of this rule applies to a dining assistant training course the director may, upon written notice, immediately suspend the approval of the training course. The written notice to the dining assistant training course ~~shall~~will provide the following:
- (1) The criteria listed in paragraph (I) of this rule giving rise to the suspension or proposed withdrawal of approval;
 - (2) An opportunity to submit documentation demonstrating that the matter giving rise to the suspension has been corrected;
 - (3) An opportunity to request an informal review;
 - (4) An indication of whether the director proposes to withdraw the approval.
- (K) If the director determines that the training course has satisfactorily demonstrated that the matter which gave rise to the suspension has been satisfactorily corrected or otherwise does not apply to the training course, the director ~~shall~~will lift the suspension and, if applicable, rescind the proposal to withdraw.
- (L) If the director determines that the training course has not satisfactorily demonstrated that the matter which gave rise to the suspension has been corrected the director ~~shall~~will withdraw the training course approval.

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3701-17-07.3 Nurse aide registry.

- (A) The director ~~shall~~will maintain a nurse aide registry listing all individuals who have met the competency ~~requirements~~standards of division (A) of section 3721.32 of the Revised Code. The registry also ~~shall~~will include both of the following:
- (1) The statement ~~required~~necessitated by section 3721.23 of the Revised Code detailing findings by the director under that section regarding alleged abuse or neglect of a resident or misappropriation of resident property;
 - (2) Any statement provided by an individual under section 3721.23 of the Revised Code disputing the director's findings.
- (B) The department ~~shall~~will not continue to list an individual on the registry as eligible to work in a long-term care facility unless the department has received verification in accordance with paragraph (C) of this rule that the individual provided at least seven and one-half consecutive hours or eight hours in a forty-eight-hour period of nursing and nursing-related services for compensation during the twenty-four month period immediately following either the date that the individual was placed on the registry or the most recent date of verified work. As used in this rule, "nursing and nursing-related services" means:
- (1) Attending to the personal care needs of individuals;
 - (2) Providing personal care services as defined at divisions (A)(5)(a)(i) to (A)(5)(a)(iii) of section 3721.01 of the Revised Code; and
 - (3) Performing activities delegated by a nurse which may include implementation of portions of the nursing regimen, as defined by section 4723.01 of the Revised Code, for individuals whose care does not ~~require~~need nursing assessment or the judgment of a nurse during the performance of the delegated activity, but 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.
- (C) If an individual desires to remain on the registry as eligible to work as a nurse aide but is not eligible because more than twenty-four consecutive months have passed since the last date of verified work, the individual ~~must~~will do one of the following:
- (1) Submit documentation showing that he or she has provided at least seven and one-half consecutive hours or eight hours in a forty-eight-hour period of nursing and nursing-related services for compensation during that twenty-four month period; or
 - (2) Successfully complete additional training and competency evaluation by complying with paragraphs (D)(1) and (D)(2) of rule 3701-17-07.1 of the Administrative Code.
- (D) The documentation ~~required~~set forth in paragraph (C)(1) of this rule ~~shall~~will include either of the following:
- (1) In the case of a facility, agency, or any other health care provider that is authorized under applicable law

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to provide services that include implementation of portions of a nursing regimen, as defined by section 4723.01 of the Revised Code, a statement verifying the dates and hours that the individual performed nursing and nursing-related services for compensation; or

- (2) A statement by a physician or nurse verifying that he or she has personal knowledge that the individual provided nursing and nursing-related services to a patient under the physician's or nurse's care. The statement ~~shall~~will further verify:
 - (a) The name of the individual that provided nursing and nursing-related services for such patient;
 - (b) The nature of the nursing and nursing-related services and the date or dates the individual last provided seven and one-half consecutive hours or eight hours in a forty-eight-hour period of nursing and nursing-related services;
 - (c) That the individual received compensation for the services specified in paragraph (D)(2)(b) of this rule. If the physician or nurse is unable to verify that the individual was compensated for those services, the individual ~~must~~will provide further proof that he or she received compensation for the specified services.
- (E) No long-term care facility ~~shall~~will continue for longer than four months to use as a nurse aide an individual who previously met the ~~requirements~~standards set forth in ~~of~~ paragraph (B) of rule 3701-17-07.1 of the Administrative Code but is not able to verify in accordance with this rule that he or she is currently eligible to work in a long-term care facility, unless the individual successfully completes additional training and competency evaluation by complying with paragraphs (D)(1) and (D)(2) of rule 3701-17-07.1 of the Administrative Code.

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3701-17-08 Personnel ~~requirements~~standards.

- (A) Each nursing home with fewer than a one hundred beds licensed capacity~~shall~~will arrange for the services of an administrator who ~~shall~~will be present in the home to the extent necessary for effectively managing the home and assuring that needs of the residents are being met, but not less than sixteen hours during each calendar week. For nursing homes with a one hundred or more bed icensed capacity, the administrator will be present in the home on a full-time basis as defined in paragraph (K) of rule 3701-17-01 of the Administrative Code. The administrator will designate another staff member to act as the administrator when absent from the nursing home due to illness, vacation or an emergency situation.
- (B) Each nursing home ~~shall~~will:
- (1) Employ a registered nurse ~~who shall to~~ serve as director of nursing:
 - (a) This ~~requirement~~standard may be met by two registered nurses who share the position as co-directors of nursing.
 - (b) The director of nursing or co-directors of nursing ~~shall~~will be on duty five days per week, eight hours per day predominantly between the hours of six a.m. and six p.m. to direct the provision of nursing services.
 - (c) The nursing home will post the name of the director of nursing ~~shall be posted~~ in a place easily accessible to residents, resident's families or sponsors, and staff and provide the information on the facility website, if applicable.
 - (2) Designate another registered nurse in its employ to serve as acting director of nursing in the event the director of nursing or co-directors of nursing are absent from the nursing home due to illness, vacation or an emergency situation. The nursing home will post the name of the acting director of nursing ~~shall be posted~~ in a place easily accessible to residents, residents' families or sponsors, and staff.
- (C) Each nursing home ~~shall~~will have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner and have the following individuals provide a minimum daily average of two and one-half hours of direct care and services per resident per day as follows:
- (1) Nurse aides;
 - (2) Registered nurses, including registered nurses who perform administrative and supervisory duties; and
 - (3) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties.
- (D) Each nursing home ~~shall~~will have a registered nurse on call whenever one is not on duty in the home. The nursing home will post the name of the registered nurse who is on call ~~shall be posted~~ in a place easily accessible to residents, residents' families or sponsors, and staff.
- (E) Each nursing home ~~shall~~will ~~also~~ have the following staff who are competent to perform the duties they are

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assigned:

- (1) Activities program staff as ~~required~~ set forth in ~~by~~ paragraph (A) of rule 3701-17-09 of the Administrative Code;
 - (2) Dietary staff as ~~required~~ as set forth in ~~by~~ paragraph (K) of rule 3701-17-18 of the Administrative Code;
 - (3) Pharmacy services staff as ~~required~~ set forth in ~~by~~ paragraph (A)(1) of rule 3701-17-17 of the Administrative Code; ~~and~~
 - (4) Social services staff to assist the home in meeting the medically-related social service needs of the residents and the requirements of rule 3701-17-09 of the Administrative Code. Each nursing home with more than one hundred twenty beds ~~shall~~ will employ, on a full-time basis, one individual licensed as a social worker under Chapter 4757. of the Revised Code ~~;~~ and
- (5) A designated infection prevention and control coordinator in accordance with paragraph (A) of rule 3701-17-11 of the Administrative Code
- (F) In addition to complying with the ~~requirements~~ standards in this rule, each nursing home ~~shall~~ will conduct an assessment of the residents admitted to the facility, based on the residents' plans of care, to determine the staffing level needed to provide, in a timely manner, adequate services and care to meet the needs of the residents admitted to or retained in the nursing home and to properly operate the dietary, housekeeping, laundry, and nursing home maintenance facilities.
 - (1) The nursing home ~~shall~~ will determine the number and type of additional staff required based on the services needing to be performed as identified in the plans of care required by rule 3701-17-14 of the Administrative Code, and authorized scopes of practice.
 - (2) The additional staff ~~shall~~ will meet the applicable qualifications of rules 3701-17-07 and 3701-17-07.1 of the Administrative Code and provide services in accordance with applicable scopes of practice.
 - (G) With input from the medical director and the director of nursing, the nursing home may adjust the staffing levels based on the needs and acuity levels of the residents, but in no event ~~shall~~ will the staffing fail to meet the ~~requirements~~ standards of this rule.
 - (H) The nursing home ~~shall~~ will establish a protocol for staff coverage that includes coverage during vacations, emergency situations, and long-term absences due to illness and unexpected absences and a contingency plan for back-up coverage.
 - (I) A nursing home that is physically located in the same building or on the same lot as a licensed residential care facility, or a home certified as a intermediate care facility for individuals with intellectual disabilities that are owned and operated by the same entity, or that provides an adult day care program in the nursing home, may use staff from the nursing home to provide services in the licensed residential care facility, certified intermediate care facility for individuals with intellectual disabilities, or adult day care program or use appropriate and qualified staff from the licensed residential care facility, certified intermediate care facility

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for individuals with intellectual disabilities, or adult day care program to meet part or all of the staffing ~~requirements~~ standards of this rule, if all of the following criteria are met:

- (1) The nursing home ~~at all times~~ meets the minimal staffing levels ~~required by~~ of this rule at all times. No staff simultaneously assigned to the staffing schedules of the nursing home and the residential care facility, certified intermediate care facility for individuals with intellectual disabilities, or adult day program ~~shall~~ will be counted towards meeting the staffing ~~requirements~~ standards of this rule;
 - (2) The other licensed residential care facility or certified intermediate care facility for individuals with intellectual disabilities, ~~at all times~~ meet their applicable staffing ~~level~~ levels ~~requirements~~ at all times. Shared nursing home staff ~~shall~~ may not be counted towards meeting the minimum staffing ~~requirements~~ levels for the other licensed residential care facility;
 - (3) Separate staffing schedules are maintained for the nursing home, residential care facility, certified intermediate care facility for individuals with intellectual disabilities, and adult day care program;
 - (4) The sharing of staff does not adversely affect the quality and timeliness of meeting the care needs of the nursing home, residential care facility, or intermediate care facility for individuals with intellectual disabilities residents and the participants of the adult day care program;
 - (5) The nursing home, residential care facility, intermediate care facility for individuals with intellectual disabilities and adult day care program are within two minutes or less response time from each other; and
 - (6) The monitoring of the call signal systems in the nursing home and residential care facility are not disrupted and the use of call signal systems is not limited to emergency use only.
- (J) Each nursing home ~~shall~~ will maintain records necessary for the director to ascertain compliance with the ~~requirements~~ standards set forth in ~~of~~ this rule.
- (K) Nothing in this rule ~~shall~~ is to be construed as authorizing an unlicensed individual to provide services that ~~require the entail~~ individual to be licensed licensure under Title 47 of the Revised Code or a health care professional to provide services outside the professional's licensed scope of practice.
- (L) The nursing home will verify each employee's home address on an annual basis, document the address in the employees personnel file, and request that the employee provide notification of any changes to their home address in the event that it changes.

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3701-17-09 Resident life enrichment.

- (A) All nursing homes ~~shall~~will provide a comprehensive activity program designed to meet the physical, mental, emotional, psycho-social well-being and personal interests of each resident. Activities ~~shall~~will be provided based on the needs and preferences of each resident as identified on their comprehensive assessment and care plan ~~required~~will by rules 3701-17-10 and 3701-17-14 of the Administrative Code, respectively, and needs and preferences identified during resident's time in the home. Activities ~~shall~~will be implemented and adjusted based on resident input and residents' changes in abilities, physical and mental status. Activities ~~shall~~will be scheduled for day time, week end, evening, and include the community to the extent possible.
- (B) All nursing homes ~~shall~~will provide social services to:
- (1) Meet the medically-related social service needs of each resident;
 - (2) Meet the physical, mental, and psycho-social well-being of each resident; and
 - (3) Assist each resident in attaining or maintaining the highest practicable level of functioning.
- (C) Residents may receive visitors of their choice at any time. The nursing home may establish reasonable policies to ensure that visits will not unduly disturb other residents or interfere with the operation of the home and ~~shall~~ provide or arrange for private space for visitation.
- (D) Residents may keep pets if allowed by facility policy. If a nursing home allows residents to keep animals or pets, or has facility pets, the nursing home ~~shall~~will ~~in consultation~~consult with the medical director and a veterinarian licensed to practice veterinary medicine under Chapter 4741. of the Revised Code, and develop and implement a written protocol regarding animals and pets that protects the health and safety and rights of residents. At a minimum, the written protocol ~~shall~~will include:
- (1) An annual physical examination, including an examination for internal and external parasites;
 - (2) Vaccinations for common infectious agents, including rabies;
 - (3) Any other preventive care necessary to protect the health, safety and rights of residents;
 - (4) Procedure to follow if an animal:
 - (a) Bites a person; or
 - (b) Becomes ill or injured;
 - (5) For resident pets, if the resident is transferred, discharged or otherwise unable to care for the pet, responsibilities for care of the pet until a family member or sponsor can retrieve the pet;
 - (6) In the case of a facility pet, the name of the designated member or members of the staff responsible for the care of the animal and for maintaining the protocol, including medical records for the animal; and
 - (7) An evaluation of the medical needs of residents.
- (E) Residents ~~shall~~will have reasonable access to various methods of communication. The administrator ~~shall~~will

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ensure that:

- (1) Each resident receives all mail, electronic mail, ~~telegrams~~, or other communications addressed to the resident unopened and unread immediately upon receipt at the nursing home, and opened and read to the resident after delivery if the resident so requests.;
 - (2) Each resident's outgoing mail ~~shall~~is to be be delivered unscreened, unopened, and unread to the regular postal channels promptly upon its receipt from the resident except when there is no regularly scheduled postal delivery or pick-up service in which case it ~~shall~~is to be be placed into the next regularly scheduled delivery or pick-up. The nursing home ~~shall~~will assist a resident in writing a letter or have a letter written for ~~him or her~~them if the resident so requests;
 - (3) Each resident has access to telephone or a computer for video conferencing services that ~~meets~~meet the needs of the resident in an area where calls can be made ~~without being overheard~~in a manner which ensures privacy; ~~and~~
 - (4) Each resident can use ~~his or her~~their cellular phone, computer, or other technological or video device unless the use of that device is not medically advisable or is disruptive to other residents or the safe and orderly operation of the home-; and
 - (5) Each resident that is determined to require assistance with communication devices, receives assistance in a timely manner as staffing allows.
- (F) The nursing home will have a plan and procedures to provide outdoor visitation in the event of a facility emergency or a public health emergency

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3701-17-10 Resident assessments; advanced care planning.

- (A) Each nursing home, in accordance with this rule, ~~shall~~will ~~conduct~~ ~~arequire~~-written initial and periodic assessments of all residents. The different components of the assessment may be performed by different licensed health care professionals, consistent with the type of information required and the professional's scope of practice, as defined by applicable law, and ~~shall~~ be based on personal observation and judgment. This paragraph does not prohibit the licensed health professional from including in the assessment resident information obtained by or from unlicensed staff provided the evaluation of such information is performed by that licensed health professional in accordance with the applicable scope of practice.
- (B) Prior to admission, the nursing home ~~shall~~will obtain from the prospective resident's physician, other appropriate licensed health professionals acting within their applicable scope of practice, or the transferring entity, the current medical history and physical of the prospective resident, including the discharge diagnosis, admission orders for immediate care, the physical and mental functional status of the prospective resident, and sufficient additional information to assure care needs of and preparation for the prospective resident can be met. This information ~~shall~~will have been updated no more than five days prior to admission.
- (C) Upon admission, the nursing home ~~shall~~will assess each resident in the following areas:
- (1) Cardiovascular, pulmonary, neurological status including auscultation of heart and lung sounds, pulses and vital signs; and
 - (2) Hydration and nutritional status, including allergies and intolerances; ~~and~~
 - (3) Presenting physical, psycho-social and mental status;~~;~~
 - (4) Ability to conduct the activities of daily living
 - (5) Head to toe skin status assessment;
 - (6) Risk for elopement; and
 - (7) Whether the resident intends to seek discharge.

The nursing home ~~shall~~will also review each resident's admission orders to determine if the orders are consistent with the resident's status upon admission as assessed by the nursing home and ~~shall~~ reconfirm, as applicable, the orders with the attending physician or other licensed health care professional acting within the applicable scope of practice. The nursing home ~~shall~~will obtain any special equipment, furniture or staffing that is needed to address the presenting needs of the resident. The nursing home ~~shall~~will ~~provide services~~ develop a baseline care plan to meet the specific needs of each resident identified through this admission assessment until such time as the care plan ~~required~~ obligated by rule 3701-17-14 of the Administrative Code is developed and implemented.

- (D) The nursing home ~~shall~~will perform a comprehensive assessment meeting the ~~requirements~~ criteria of paragraph (E) of this rule on each resident as follows:

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- (1) The comprehensive assessment ~~shall~~will be performed within fourteen days after the individual begins to reside in the facility.
 - (2) Subsequent to the initial comprehensive assessment, a comprehensive assessment ~~shall~~will be performed at least annually thereafter. The annual comprehensive assessment ~~shall~~will be performed within thirty days of the anniversary date of the completion of the resident's last comprehensive assessment.
- (E) The comprehensive assessment ~~shall~~will include documentation of the following:
- (1) Preferences of the resident including hobbies, usual activities, bathing, sleeping patterns, socialization and religious;
 - (2) Medical diagnoses;
 - (3) Psychological, and intellectual disabilities and developmental diagnoses and history, if applicable;
 - (4) Health history and physical, including cognitive functioning, sensory and physical impairments, and the risk of falls;
 - (5) Psycho-social history;
 - (6) Prescription and over-the-counter medications;
 - (7) Nutritional and dietary requirements, food preferences, and need for any adaptive equipment, and needs for assistance and supervision of meals;
 - (8) Height, weight and history of weight changes;
 - (9) A functional assessment which evaluates the resident's ability to perform activities of daily living;
 - (10) The resident's risk of falls;
 - (11) Vision, dental and hearing function, including the need for eyeglasses or other visual aids;
 - (12) Dental function; including the need for dentures or partial dentures;
 - (13) Hearing function, including the need for hearing aids or other hearing devices; ~~and~~
 - (14) Head to toe skin status assessment;
 - (15) Ability to conduct activities of daily living;
 - ~~(14)-(16)~~ Any other alternative remedies and treatments the resident is taking or receiving; and
 - (17) Risk of elopement.
- The documentation required by this paragraph ~~shall~~will include the name and signature of the individual performing the assessment, or component of the assessment, and the date the assessment was completed.
- (F) Subsequent to the initial comprehensive assessment, the nursing home ~~shall~~will periodically reassess each resident, at minimum, every three months, unless a change in the resident's physical or mental health or

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cognitive abilities ~~requires~~ necessitates an assessment sooner. The nursing home ~~shall~~ will update and revise the assessment to reflect the resident's current status. This periodic assessment ~~shall~~ will include documentation of at least the following:

- (1) Changes in medical diagnoses;
- (2) Updated nutritional requirements and needs for assistance and supervision of meals;
- (3) Height, weight and history of weight changes;
- (4) Prescription and over-the-counter medications;
- (5) A functional assessment as described in paragraph (E)(8) of this rule;
- (6) The resident's risk of falls;
- (7) Any changes in the resident's psycho-social status or preferences as described in paragraph (E)(4) of this rule; ~~and~~
- (8) Any changes in cognitive, communicative or hearing abilities or mood and behavior patterns;
- (9) Head to toe skin assessment;
- (10) Ability to conduct activities of daily living; and
- (11) Risk of elopement.

- (G) Nursing homes that conduct resident assessments in accordance with 42 C.F.R. 483.20, using the resident assessment instrument specified by rule ~~5101-3-3-43.1~~ 5160-3-43.1 of the Administrative Code, ~~shall~~ will be considered in compliance with paragraphs (D), (E) and (F) of this rule.
- (H) Each nursing home ~~shall~~ will participate in advance care planning with each resident or the resident's sponsor if the resident is unable to participate. ~~The advance care planning shall be provided~~ on admission to the nursing home; ~~and~~ Thereafter, thereafter, for each resident, ~~the advance care planning shall be provided~~ on a quarterly basis each year. For purposes of this paragraph, "advance care planning" means providing an opportunity to discuss the goals that may be met through the care provided by a nursing home.

(I) If the nursing home has a designated smoking area, the nursing home will include the following in the assessment conducted in accordance with paragraphs (D), (E), and (F) of this rule for each resident that smokes;

- (1) An assessment of the resident's ability to smoke without supervision and without a smoking apron; and
- (2) An evaluation of and changes to cognitive, communicative, mood, or behavioral patterns associated with smoking.

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3701-17-11 Infection control; tuberculosis control plan.

(A) Each nursing home will establish and implement appropriate written policies and procedures to assure a safe, sanitary and comfortable environment for residents and to prevent and control the development and transmission of infections and diseases. Each nursing home will establish an infection prevention and control program to monitor compliance with home's infection prevention and control policies and procedures, to investigate, control and prevent infections in the home, and to institute appropriate interventions. The home will designate an appropriately licensed health professional with competency in infection prevention and control to serve as the infection prevention and control coordinator who performs a minimum of twenty hours of infection control duties in the nursing home each week, and participates in the nursing home's quality control and performance improvement (QAPI) committee. The home will provide that individuals name and contact information, including an electronic mail address, on an electronic system prescribed by the director no later than ten days after hiring or appointing the individual and no later than ten days after the individual's contact information changes or the designated individual is replaced. The infection prevention and control coordinator will:

- (1) Have completed post-secondary education in a health-related field including but not limited to medicine, nursing, laboratory technology, public health, or biology;
- (2) Have education, training, or experience in infection control;
- (3) Work at least part-time at the facility; and
- (4) Have completed specialized training in infection prevention and control including:
 - (a) Identification of infectious disease processes, including modes of transmission, signs and symptoms;
 - (b) Surveillance and epidemiologic investigation, including syndromic surveillance;
 - (c) Preventing and controlling the transmission of infectious agents, including standard precautions and transmission-based precautions;
 - (d) Environment of care; and
 - (e) Cleaning, disinfection, asepsis, and sterilization best practices.

(B) Each nursing home shall will establish an infection prevention and control program to monitor compliance with home's infection prevention and control policies and procedures, to investigate, control and prevent infections in the home, and to institute appropriate interventions. An effective infection control program includes:

- (1) A tuberculosis control plan that meets the standards set forth in rule 3701-15-03 of the Administrative Code;
- (2) A written surveillance plan outlining the activities for monitoring/tracking infections based on nationally-recognized surveillance criteria such as McGeer criteria and:
 - (a) Includes a surveillance system that includes a data collection tool;
 - (b) Uses surveillance data to:
 - (i) Implement timely corrective action when a greater than expected number healthcare-associated

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infections are detected; and

(ii) Implement timely corrective actions when transmission of targeted MDROs (e.g., CRE, Candida auris) are detected.

(3) Written standards, policies, and procedures for the program, which must include, but are not limited to:

(a) Standard and transmission-based precautions to be followed to prevent spread of infections;

(b) When and to whom possible incidents of communicable disease or infections should be reported;

(c) When and how isolation should be used for a resident; including but not limited to:

(i) The type and duration of the isolation, depending upon the infectious agent or organism involved, and (B) A requirement; and

(ii) A requirement that the isolation should be the least restrictive possible for the resident under the circumstances.

(4) Written standards, policies, and procedures under which the facility will prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease;

(5) The hand hygiene procedures to be followed by staff involved in direct resident contact, including, but not limited to:

(a) Washing hands for twenty seconds with soap and water:

(i) After using the toilet;

(ii) Before direct contact with a resident, dispensing medication, or handling food;

(iii) Immediately after touching body substances including blood, semen, saliva, vaginal secretions, feces, urine, wound drainage, emesis and any other secretion or excretion of the human body except tears and perspiration;

(iv) After handling potentially contaminated objects;

(v) Between direct contact with different residents; and

(vi) After removing gloves; or

(b) Cleaning of hands with an alcohol-based product used according to manufacturer's directions or other alternative methods accepted by the United States Centers for Disease Control and Prevention or US Food and Drug Administration, as being an effective alternative, or handwashing with soap and water.

(6) Written standards, policies, and procedures for laundry to ensure personnel handle, store, process, and transport linens so as to prevent the spread of infection including:

(a) Handling soiled laundry as little as possible;

(b) Placing of laundry that is wet or soiled with body substances in impervious bags that are secured to

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prevent spillage; and

(c) Wearing of impervious gloves and impervious gowns by individuals performing laundry services, and, if handling soiled or wet laundry on the unit, the wearing of gloves and, if appropriate, other personal protective equipment;

(7) Written standards, policies and procedures to ensure infection prevention and control in the event of an emergency or disaster requiring evacuation or other movement of residents.

(C) If any resident, or individual used by the nursing home, exhibits signs and symptoms of a disease listed in rule 3701-3-02 of the Administrative Code, the nursing home will ensure that appropriate interventions and follow-up are implemented and make reports to the appropriate local public health authority.

(D) Each nursing home will establish and implement an effective water management program to identify hazardous conditions, and take steps to manage the risk of occurrence and transmission of waterborne pathogens, including but not limited to legionella, in building water systems in accordance with guidance from the United States centers for disease control and prevention (available at <https://www.cdc.gov/legionella/wmp/overview.html>) and recommendations of the United States centers for disease control and prevention healthcare infection control practices advisory committee, "Environmental Infection Control Guidelines" (2019) or its successors.

(E) If the nursing home provides an adult day care program which is located, or shares space, within the same building as the nursing home, shares staff between the program and the home, or where the day care participants at any time intermingle with residents of the home, the standards of this rule are also applicable to participants of the adult day care program.

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3701-17-11 — Infection control; tuberculosis control plan.

- ~~(A) Each nursing home shall establish and implement appropriate written policies and procedures to assure a safe, sanitary and comfortable environment for residents and to control the development and transmission of infections and diseases. Each nursing home shall establish an infection control program to monitor compliance with home's infection control policies and procedures, to investigate, control and prevent infections in the home, and to institute appropriate interventions. The home shall designate an appropriate licensed health professional with competency in infection control to serve as the infection control coordinator.~~
- ~~(B) Each nursing home shall develop and follow a tuberculosis control plan that is based on the home's assessment of the facility. The control and assessment shall be consistent with the United States centers for disease control and prevention "Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health Care Settings, 2005," MMWR 2005, Volume 54, No. RR-17. The home shall retain documentation evidencing compliance with this paragraph and shall furnish such documentation to the director upon request.~~
- ~~(C) If any resident, or individual used by the nursing home, exhibits signs and symptoms of a disease listed in rule 3701-3-02 of the Administrative Code, the nursing home shall ensure that appropriate interventions and follow-up are implemented and shall make reports to the appropriate local public health authority as required by law.~~
- ~~(D) Each nursing home shall use appropriate infection control precautions in caring for all residents. At minimum, individuals working in a nursing home shall:~~
- ~~(1) Wash their hands vigorously with soap and water for at least ten to fifteen seconds or, if hand-washing facilities are not readily available, with an alcohol-based product used according to manufacturer's directions or other alternative methods accepted by the United States centers for disease control and prevention, as being an effective alternative, but not as a substitute for regular hand washing:~~
 - ~~(a) After using the toilet;~~
 - ~~(b) Before direct contact with a resident, dispensing medication, or handling food;~~
 - ~~(c) Immediately after touching body substances;~~
 - ~~(d) After handling potentially contaminated objects;~~
 - ~~(e) Between direct contact with different residents; and~~
 - ~~(f) After removing gloves.~~
 - ~~(2) Place disposable articles contaminated with body substances (other than sharp items) in a container impervious to moisture and manage them in a fashion consistent with Chapter 3734. of the Revised Code. Reusable items contaminated with body substances shall be contained until cleaning and decontamination occurs using products that are approved by the United States food and drug administration;~~
 - ~~(3) Wear disposable gloves for contact with any resident's body substances, non-intact skin or mucous membranes. The gloves shall be changed before and after contact with another resident and disposed of in accordance with state law;~~

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- ~~(4) Wear an impervious cover gown or other appropriate protective clothing if soiling of clothing with body substances is likely to occur;~~
- ~~(5) Wear a mask and protective goggles or a face shield if splashing of body substances is likely or if a procedure that may create an aerosol is being performed;~~
- ~~(6) Dispose of all hypodermic needles, syringes, scalpel blades and similar sharp wastes by placing them in rigid, tightly closed puncture-resistant containers before they are transported off the premises of the home, in a manner consistent with Chapter 3734. of the Revised Code. The nursing home shall provide instructions to all individuals who use sharps in the home on the proper techniques for disposal; and~~
- ~~(7) Disposable equipment and supplies shall not be re-used.~~

~~For the purposes of paragraph (C) of this rule, "body substance" means blood, semen, saliva, vaginal secretions, feces, urine, wound drainage, emesis and any other secretion or excretion of the human body except tears and perspiration.~~

- ~~(E) In addition to following the standard precautions required by paragraph (C) of this rule, nursing homes shall follow the current guidelines for isolation requirements issued by the United States centers for disease control and prevention when caring for a resident known or suspected to be infected with a disease listed in paragraph (A) of rule 3701-3-02 of the Administrative Code. The nursing home shall develop and follow a tuberculosis control plan, based on a facility assessment, which is consistent with current guidelines issued by the centers for disease control and prevention.~~
- ~~(F) The nursing home shall keep clean and soiled laundry separate. Soiled laundry shall be handled as little as possible. Laundry that is wet or soiled with body substances, as defined in paragraph (C) of this rule, shall be placed in impervious bags which are secured to prevent spillage. Individuals performing laundry services shall wear impervious gloves and an impervious gown. Individuals handling soiled or wet laundry on the unit shall wear gloves and, if appropriate, other personal protective equipment. The home shall use laundry cycles according to the washer and detergent manufacturers' recommendations. Protective clothing shall be removed before handling clean laundry.~~
- ~~(G) If the nursing home provides an adult day care program which is located, or shares space, within the same building as the nursing home, shares staff between the program and the home, or where the day care participants at any time intermingle with residents of the home, the requirements of this rule are also applicable to participants of the adult day care program.~~

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3701-17-12 Notification and reporting of changes in health status, illness, injury and death of a resident.

The nursing home administrator or the administrator's designee ~~shall~~will:

(A) Immediately inform the resident, consult with resident's physician or other licensed health professional acting within the applicable scope of practice, or the medical director, if the resident's physician or other licensed health professional ~~acting within the applicable scope of practice~~ is not available, and notify the resident's sponsor or authorized representative, with the resident's permission, and other proper authority, in accordance with state and local laws and regulations when there is:

- (1) An accident involving the resident which results in injury and has the potential for requiring physician intervention;
- (2) A significant change in the resident's physical, mental, or psycho-social status such as a deterioration in health, mental, or psycho-social status in either life-threatening conditions or clinical complications;
- (3) A need to alter treatment significantly such as a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment.

~~The notification shall include a~~ The nursing home administrator or administrator's designee is obligated to include a description of the circumstances and cause, if known, of the illness, injury or death in the notification and document. ~~A notation of~~ the change in health status and any intervention taken ~~shall be documented~~ in the resident's medical record. If the resident is a patient of a hospice care program, the notifications ~~required by this paragraph shall be~~ are the responsibility of the hospice care program unless otherwise indicated in the coordinated plan of care ~~required~~ obligated under paragraph (H) of rule 3701-17-14 of the Administrative Code.

(B) Report the death of a resident within twenty-four hours to the appropriate third-party payer; or, if the office is closed, as soon thereafter as it is open.

(C) Report any incident of fire, damage due to fire and any incidence of illness, injury or death due to fire or smoke inhalation of a resident within twenty-four hours to the office of the state fire marshal and to the director.

(D) Report the diseases required to be reported under Chapter 3701-3 of the Administrative Code in the manner specified by that chapter.

(E) Report residents who are missing from the building without explanation or prior notification, to the director in a manner prescribed by the director.

(F) Residents missing and at risk due to physical or cognitive impairment or assessed as at risk for elopement should be reported to local law enforcement

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3701-17-13 Medical supervision.

- (A) Each nursing home operator ~~shall~~will arrange for the services of a physician to serve as the home's medical ~~director~~ and, the medical director ~~shall~~will:
- (1) ~~In collaboration~~Collaborate with the administrator, the nursing director, and other health professionals; ~~to~~ develop formal resident care policies for the nursing home that:
 - (a) Provide for the total medical and psycho-social needs of the resident, including admissions, transfer, discharge planning, range of services available to the resident, emergency procedures and frequency of physician visits in accordance with resident needs and the applicable requirements of Chapter 3721. of the Revised Code and of rules 3701-17-01 to 3701-17-26 of the Administrative Code.
 - (b) Promote resident rights as enumerated in section 3721.13 of the Revised Code.
 - (2) Make available medical care for residents not under the care of their own physicians and to make available emergency medical care available to all residents, provided their personal physicians are not readily available.
 - (3) Meet periodically with nursing and other professional staff to discuss clinical and administrative issues, including the need for additional staff, specific resident care problems and professional staff needs for education or consultants to assist in meeting special needs such as dentistry, podiatry, dermatology, and orthopedics, offer solutions to problems, and identify areas where policy should be developed. In carrying out this function, the medical director ~~shall~~will:
 - (a) Observe residents and facilities at least quarterly or more frequently as needed; ~~and~~
 - (b) Review pharmacy reports, at least quarterly, including summaries of the drug regimen reviews ~~required by~~ set forth in paragraph (I) of rule 3701-17-17 of the Administrative Code and the quality assurance activities ~~required by~~ set forth in paragraph (C) of rule 3701-17-06 of the Administrative Code, and take appropriate and timely action as needed to implement recommendations; ~~and~~
 - (c) Make themselves or their designee acting within their scope of practice, available either in-person or on-call, to ensure medical standards are adhered to during facility emergencies, voluntary closures, and decertification or licensure actions.
 - (4) Monitor the clinical practices of, and discuss identified problems with, attending physicians; act as a liaison between the attending physicians and other health professionals caring for residents and the residents' families; and intervene as needed on behalf of residents or the home's administration.
 - (5) Maintain surveillance of the health of the nursing home's staff.
 - (6) Assist the administrator and professional staff in ensuring a safe and sanitary environment for residents and staff by reviewing incidents and accidents, identifying hazards to health and safety, and advising about possible correction or improvement of the environment.
 - (7) Review all deficiency statements issued to the nursing home.

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- (B) The nursing home ~~shall is~~ not authorized to administer any medication to any resident unless ordered by a physician or ~~by~~ other licensed health professionals acting within the applicable scope of practice. If orders are given by telephone, ~~they shall the order will~~ be ~~recorded~~ documented with the licensed health professional's name, ~~and the~~ date, and the order and be signed by the person who accepted the order. All orders, including facsimile, telephone, electronic mail, or verbal orders, ~~shall are to~~ be accepted and documented in accordance with United States drug enforcement administration and board of pharmacy of the state of Ohio requirements.
- (C) The nursing home ~~shall is~~ not authorized to administer any treatment to any resident unless ordered by a physician or ~~by~~ other licensed health professionals acting within the applicable scope of practice. If orders are given by telephone, ~~they shall the order will~~ be ~~recorded~~ documented with the licensed health professional's name, ~~the~~ date, and the order and be signed by the person who accepted the order. All orders, including facsimile, telephone, electronic mail, or verbal orders, ~~shall are to~~ be signed and dated by the physician or other licensed health professional working in collaboration with the physician who gave the order within fourteen days after the order was given.
- (1) Telephone orders ~~shall are~~ not authorized to be accepted by a person other than a licensed nurse on duty, another physician or a pharmacist, except that a licensed physical, occupational or respiratory therapist, audiologist, speech pathologist, dietitian, or other licensed health professional may receive, document and date treatment orders concerning that individual's specific discipline for residents under their care, to the extent permitted by applicable licensing laws.
- (2) The nursing home may accept signed orders issued by a licensed health professional by electronic mail or facsimile transmission only if the home has instituted procedural safeguards for authenticating and maintaining confidentiality of the facsimile order, and for handling it in an expedient and priority manner.
- (3) An entry that is an electronic record as defined in section 3701.75 of the Revised Code may be authenticated by an electronic signature in accordance with section 3701.75 of the Revised Code, if allowed by law.
- (D) Each resident of a nursing home ~~shall will~~ be under the supervision of a physician and be. ~~Each resident of a nursing home shall~~ be evaluated by a physician or other licensed health professionals acting within the applicable scope of practice, at least once every thirty days for the first ninety days after admission, or three evaluations. After this period, each resident of a nursing home ~~shall will~~ be evaluated by a physician or other licensed health professionals acting within the applicable scope of practice at least every sixty days, except that if the attending physician documents in the medical record why it is appropriate, the resident may be evaluated no less frequently than once every one hundred twenty days.
- (1) The evaluations ~~required obligated~~ by this rule ~~shall will~~ be made in person and. ~~In conducting the evaluation,~~ the physician or licensed health professional ~~shall will~~ solicit resident input to the extent of the resident's capabilities during the evaluation.
- (2) The physician or licensed health professional ~~shall will~~ write a progress note after each evaluation

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depicting the current condition of the resident based upon consideration of the physical, mental and emotional status of the resident.

(3) A physician or licensed health professional visit is considered timely if it occurs no later than ten calendar days after the date the visit was ~~required~~scheduled.

(E) ~~Each~~On an annual basis, each nursing home ~~shall, on an annual basis,~~will offer to each resident a vaccination against influenza and a vaccination against pneumococcal pneumonia as ~~required by~~set forth in section 3721.041 of the Revised Code.

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3701-17-14 Plan of care; treatment and care: discharge planning, bathing.

- (A) The nursing home ~~shall~~will assure-ensure that development of a plan of care is initiated upon admission and completed and implemented for each resident within seven days of completion of the initial comprehensive assessment, ~~required-conducted in accordance with~~by rule 3701-17-10 of the Administrative Code. ~~The plan shall be~~A resident-focused and goal driven ~~plan; and~~will be prepared by an interdisciplinary team that includes the attending physician or other licensed health professional acting within the applicable scope of practice, or both, a registered nurse with responsibility for the resident and other appropriate staff in disciplines as determined by the needs of the resident including, but not limited to dietary, recreation, and social work staff. The home ~~shall~~will offer opportunities for the resident, the resident's sponsor, and those of the resident's choice to participate in the care planning process and will provide necessary information, support, and options for engaging in the process to ensure that the resident/sponsor directs the process to the maximum extent possible and is enabled to make informed choices and decisions.
- (1) The plan of care ~~shall~~will be consistent with the comprehensive assessment with recognition of the capabilities, preferences and goals of the resident, and shall ~~contain~~a written description of what services, supplies and equipment, are needed, when, how often, and by whom services, supplies and equipment will be provided and the measurable goals or outcomes.
- (2) The plan of care ~~shall~~will be reviewed whenever there is a change in the resident's condition, needs, or preferences that warrant a change in the services, supplies or equipment to be provided, and at least quarterly, by the nursing home and the resident, or sponsor, or both, and ~~shall~~be updated, as appropriate.
- (3) Each resident ~~shall~~is authorized to have access to his or her assessment and plan of care at any time upon request.
- (B) All skilled nursing care ~~shall~~will be provided by a nurse except a nurse may delegate certain tasks as authorized by Chapter 4723. of the Revised Code in accordance with the applicable rules adopted under that chapter.
- (C) The nursing home ~~shall~~will provide ~~all residents~~each resident who cannot give themselves adequate personal care with such care as is necessary to keep them clean, ~~and~~comfortable, and well groomed.
- (D) Each nursing home ~~shall~~will provide adequate supervision of residents who are assessed for risk of falls, or elopement, or both, and elopements are obligated to be reported to the department in accordance with paragraph (E) of rule 3701-17-12 of the Administrative Code.
- (E) All services, supplies and equipment provided or arranged for by the nursing home ~~shall~~is to be be provided, in accordance with acceptable standards of practice and the written plans of care, by individuals who meet the applicable qualifications of this chapter.
- (F) The nursing home ~~shall assure~~will ensure that all residents receive adequate, kind, and considerate care and treatment at all times.

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- (G) The nursing home ~~shall~~will transfer ~~and or~~ discharge a resident in an orderly, dignified, and safe manner in accordance with Chapter 3701-61 of the Administrative Code. In anticipation of a discharge, the nursing home ~~shall~~will:
- (1) Prepare the following information to be shared with appropriate persons and agencies upon consent of the resident, except the resident's right to refuse release of such information does not apply in the case of transfer to another home, hospital, or health care system, if the release is required by law or rule or by a third-party payment contract;
 - (a) An updated assessment that addresses the criteria outlined in paragraph (E) of rule 3701-17-10 of the Administrative Code and accurately identifies the resident's condition and continuing care need at the time of transfer and discharge;
 - (b) A plan that is developed with the resident and ~~these~~any persons of the resident's choice, that indicates where the individual plans to reside, and any arrangements that have been made for the resident's follow up care and any post-discharge medical and non-medical services. The plan ~~shall~~will also identify need for the resident and care givers' education, including resident and care giver instruction on the proper use of grab rails and other safety devices, and any accommodations to the physical environment to meet the needs of the resident;
 - (2) Provide for drugs to be sent with or arranged for the resident pursuant to paragraph (F)(2) of rule 3701-17-17 of the Administrative Code.
 - (3) With the consent of the resident, arrange and confirm the services, equipment and supplies in advance of discharge or transfer of the resident.
- (4) The nursing home will begin discharge planning for any resident for whom the initial and subsequent assessment indicated an interest in discharge.
- (H) If the nursing home resident is also a patient of a hospice care program, the nursing home ~~shall~~will communicate and work with the hospice care program in the development and implementation of a coordinated plan of care between the nursing home and the hospice care program. The nursing home ~~shall~~will allow the hospice care program to retain professional management responsibility for directing the implementation of the resident's plan of care related to the resident's terminal illness ~~pursuant~~ and related conditions pursuant to Chapter 3701-19 of the Administrative Code as long as the resident is receiving hospice care. The coordinated plan of care ~~shall~~will:
- (1) Reflect the hospice philosophy;
 - (2) Be based on the assessment of the resident and the unique living situation in the nursing home; and
 - (3) Identify the services, supplies, and equipment to be provided by the nursing home and those to be provided by the hospice care program.
- (I) The nursing ~~shall~~home will ensure that the privacy and dignity of residents is protected when residents are transported to and from bathing facilities, when residents are preparing for bathing, and during resident bathing.

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- (J) Upon a resident's transfer, discharge, or death, the nursing home ~~shall~~will make an accounting of all that resident's monies held by the facility. ~~The nursing home~~and ~~shall~~ convey any remaining funds immediately to the resident or within thirty days to the resident's estate unless otherwise directed by law.

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3701-17-15 Restraints.

(A) For purposes of this rule:

- (1) "Attending physician" means the physician with the most significant role in the determination and delivery of medical care to the individual at the time of a restraint order, which may include, the resident's physician, the medical director of the home, or another physician on the staff of the home.
- (2) "Prone restraint" means all items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual's body while the individual is in a face-down position for an extended period of time. Prone restraint includes physical or mechanical restraint.
- (3) "Transitional hold" means a brief physical positioning of an individual face-down for the purpose of quickly and effectively gaining physical control of that individual in order to prevent harm to self and others, or prior to transport to enable the individual to be transported safely.

(B) Except as provided in paragraph (F) of this rule for emergency situations, the nursing home ~~shall~~is not allowed to physically or chemically restrain a resident or subject a resident to prolonged isolation except on written order of an attending physician which ~~shall include~~includes the date, means of restraint to be used, medical reason for restraint, and duration of restraint. Such written orders ~~shall~~will be made a part of the resident's record.

- (1) The nursing home ~~shall~~is not authorized to use a physical or chemical restraint or isolation for punishment, incentive, or convenience.
- (2) The use of prone restraints and transitional holds is ~~prohibited~~forbidden in nursing homes.
- (3) A nursing home's use of the following for the purposes stated in this paragraph ~~shall~~is not be construed as physically or chemically restraining a resident or subjecting a resident to prolonged isolation:
 - (a) Devices that assist a resident in the improvement of the resident's mental and physical functional status and that do not restrict freedom of movement or normal access to one's body;
 - (b) Medications that are standard treatment or a documented exception to standard treatment for the resident's medical or psychiatric condition which assist a resident in attaining or maintaining the resident's highest practicable physical, mental, and psycho-social well-being; and
 - (c) Placement of residents in a unit who are assessed to need specialized care that restricts their freedom of movement throughout the home if:
 - (i) The home has made the determination to place each resident in such unit in accordance with paragraph (C) of this rule;
 - (ii) Care and services are provided in accordance with each resident's individual needs and preferences, not for staff convenience;
 - (iii) The need for the resident to remain in the locked unit is reviewed during each periodic assessment ~~required~~conducted in accordance with~~by~~ paragraph (F) of rule 3701-17-10 of the Administrative Code and during the continuing care planning ~~required~~conducted in accordance

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~~with~~by rule 3701-17-14 of the Administrative Code;

(iv) The locked unit meets the requirements of the state building and fire codes; and

(v) Residents who are not cognitively impaired are able to enter and exit the unit without assistance.

(C) Except as provided in this paragraph, and paragraph (F) of this rule for emergency situations, prior to authorizing the use of a physical or chemical restraint on any resident, the nursing home ~~shall~~will ensure that the attending physician:

(1) Makes a personal examination of the resident and an individualized determination of the need to use the restraint on that resident; and

(2) In conjunction with an interdisciplinary team of health professionals and other care givers, conducts an individualized comprehensive assessment of the resident. This assessment ~~shall~~will:

(a) Identify specific medical symptoms that warrant the use of the restraint;

(b) Determine the underlying cause of the medical symptom and whether that underlying cause can be mitigated;

(c) Investigate and determine if possible alternative interventions have been attempted and found unsuccessful. Determine the least restrictive device that is most appropriate to meet the needs of the resident, taking into consideration any contraindications;

(d) Discuss with the resident or authorized representative, and any other individual designated or authorized by the resident, the risks and benefits of the restraint; and

(e) Obtain written consent from the resident or the resident's authorized representative.

A nursing home may restrain or isolate a resident transferred from another health care facility based on the resident's transfer orders if such orders include restraint use or isolation authorization and the home complies with the provisions of this paragraph within twenty-four hours of the resident's admission or readmission to the home.

(D) If a physical restraint is ordered, the nursing home ~~shall~~will select the restraint appropriate for the physical build and characteristics of the resident and ~~shall~~ follow the manufacturer's instructions in applying the restraint. The nursing home ~~shall~~will ensure that correct application of the restraint is supervised by a nurse and that the restrained resident is monitored at least every thirty minutes. The visual monitoring of the restrained resident may be delegated as permitted under state law. Jackets, sheets, cuffs, belts, or mitts made with unprotected elements of materials such as heavy canvas, leather, or metal ~~shall~~are not authorized to be used as restraints.

(E) The attending physician or a staff physician may authorize continued use of physical or chemical restraints for a period not to exceed thirty days and, at the end of this period and any subsequent period, may extend the authorization for an additional period of not more than thirty days. The use of physical or chemical restraints ~~shall~~is not allowed to be continued without a personal examination of the resident and the written authorization of the attending physician stating the reasons for continuing the restraint.

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- (F) Physical or chemical restraints or isolation may be used in an emergency situation without authorization of, or personal examination by, the attending physician only to protect the resident from injury to self or others. Use of the physical or chemical restraint or isolation ~~shall is~~ not allowed to be continued for more than twelve hours after the onset of the emergency without personal examination and authorization by the attending physician.
- (G) When isolation or confinement is used, the nursing home ~~shall~~ will ensure that:
- (1) The resident is continually monitored and periodically reassessed for continued use and need of this method of intervention;
 - (2) The door is secured in such a way as to be readily opened in case of an emergency;
 - (3) The resident is isolated or confined for the least amount of time to achieve desired outcome.
- (H) Members of the nursing home's quality assurance committee, ~~required as set forth in~~ by rule 3701-17-06 of the Administrative Code, ~~shall~~ will review ~~monthly~~ the use of restraints and isolation and any incidents that resulted from their use, as well as incidents which resulted in the use of restraints or isolation on a monthly basis. The review ~~shall~~ will include an identification of ~~identify~~ any trends, increases, ~~and or~~ problems, and the need for additional training, consultations or corrective action which ~~shall~~ will be discussed and reflected in the minutes of the next quality assurance committee meeting.

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3701-17-16 Equipment and supplies.

- (A) Each resident, if the resident so chooses, ~~shall~~will be provided with an individual bed not less than thirty-six inches wide, a clean comfortable flame-resistant mattress suitable for the size of the resident, and clean pillows, sheets, and covering suitable for the resident's comfort. A nursing home ~~shall~~will arrange for the provision of at least a double size bed, upon request of a married couple or other consenting adult residents sharing a room in accordance with the nursing home's policy, unless there is an overriding documented medical reason that puts one of the consenting parties at risk of health and safety or there is a risk to other residents. Mattresses ~~shall~~will be protected with waterproof material unless otherwise ordered by a physician. Roll away beds, cots, double deck beds, stacked bunk beds, hide-a-bed couches, or studio couches ~~shall are not authorized to not~~ be used as a substitution for the beds obligated by this rule. All mattresses purchased or obtained by the nursing home, or brought to the nursing home by residents, ~~shall~~will be in safe condition. If the resident chooses to sleep on an alternate piece of furniture, such as a reclining chair, the nursing home will ensure that a bed meeting the requirements of this rule remains available to the resident;
- (B) Unless otherwise ordered by a physician or other licensed health professional acting with the applicable scope of practice, each resident ~~shall~~will be provided with a bedside table, a bedside light that is sufficient for reading and staff rendering of bedside care, a bureau or equivalent, a waste basket with liners, a comfortable chair, and adequate closet or wardrobe space for the storage of personal clothing in the resident's room. A nursing home may provide additional storage space for resident belongings elsewhere in the nursing home. Resident rooms ~~shall are to~~ be designed or equipped to assure full visual privacy for each resident including blinds, shades, or curtains for each exterior window in a resident's room that the resident may open and close or have opened or closed for them upon request. For the purposes of this paragraph, "full visual privacy" means that the resident has a means of completely withdrawing from public view while occupying their bed through such means as a curtain, ~~moveable~~movable screens or a private room.
- (C) Each nursing home ~~shall~~will have a call signal system in good working order, is accessible directly or through assistive devices assessed to be most appropriate for the resident's physical and cognitive capacity, and is within reach of the resident that, at minimum, provides for the transmission of calls from resident rooms and toilet and bathing facilities.
- (D) Supplies such as hypodermic syringes, needles, and lancets ~~shall~~will be discarded after use in accordance with state and federal requirements. Reusable items ~~shall~~will be cleaned and disinfected according to manufacturer's directions and in accordance with applicable state and federal law and regulations.
- (E) All nursing homes ~~shall~~will, at all times, have the supplies and equipment necessary to provide the services and nursing care needed by the type of residents admitted to or residing in the nursing home. Wheelchairs, gerichairs, quad canes, adaptive eating equipment and utensils, and other assistive devices ~~shall are to~~ be maintained in good and safe working condition and ~~shall~~ be equipped properly for the specific needs of each resident.
- (1) All equipment and supplies in a nursing home ~~shall are to~~ be kept clean and usable and ~~shall~~ be satisfactorily stored when not in use.

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- (2) In selecting supplies and equipment, the home ~~shall~~will consider resident needs.
- (F) Within areas generally accessible to residents, all disinfectants, pesticides, and poisons ~~shall~~will be kept in a locked area separate from medications and food.
- (G) The nursing home ~~shall~~will provide a safe, clean, comfortable and homelike environment allowing each resident to use personal belongings to the extent possible. Residents may refuse furnishings, equipment and supplies provided by the nursing home. The nursing home ~~shall~~will allow residents to bring their own furnishings and other personal items into the home to personalize their individual environment if the furnishings and items do not create a health and safety risk, are not medically inadvisable, or infringe upon the rights of other residents. Upon request, the nursing home ~~shall~~will assist the resident in obtaining essential furnishings and supplies.

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3701-17-17 Medicines and drugs.

- (A) The nursing home ~~shall~~will provide or obtain routine and emergency medicines, drugs and biologicals for its resident except if prohibited by state or federal law. The nursing home ~~shall~~is obligated to permit residents to use and continue to obtain medicines, drugs and biologicals dispensed to them from a pharmacy of choice provided the medicines, drugs and biologicals meet the standards of this rule.
- (1) Each nursing home ~~shall~~will provide pharmacy services by employing a pharmacist on either a full-time, part-time, or consultant basis or by contracting with a pharmacy service. The pharmacist or pharmacy service ~~shall be~~is responsible for maintaining supervision and control of the stocking and dispensing of drugs and biologicals in the home in accordance with state pharmacy rules.
- (2) The nursing home, in conjunction with the pharmacist or pharmacy service, ~~shall~~will:
- (a) Maintain an emergency and contingency drug supply for use in the absence of the pharmacist; and
- (b) Ensure that the contingency drug supply is maintained in accordance with state pharmacy rules.
- (B) Medicines and drugs ~~shall~~are to be given only to the individual resident for whom they are prescribed, ~~shall~~ be given in accordance with the directions on the prescription or the physician's orders, provided in a manner to ensure the privacy of the resident, and ~~shall~~ be recorded on the resident's medication administration record.
- (C) Every container of medicine and drugs prescribed for a resident ~~shall~~will be properly and clearly labeled in accordance with applicable state regulations as to the following:
- (1) Date dispensed.
- (2) Name of resident.
- (3) Directions for use.
- (4) Name of the prescriber.
- (5) Name of the drug, strength, and prescription number if there is one.
- (D) Containers too small to bear a complete prescription label ~~shall~~will be labeled with at least the prescription number and the name of the resident, unless application of this label would impair the functioning of the product, and ~~shall~~ be dispensed in a container bearing a complete prescription label.
- (E) The nursing home ~~shall~~will ensure that: ~~all medications and drugs are stored under proper temperature controls and secured against unauthorized access. All medicines and drugs, including those requiring refrigeration, shall be kept in locked storage areas and separate from materials that may contaminate the medicines and drugs such as poisonous substances. Where a pharmacist is not present twenty-four hours a day, keys to locked contingency drug supplies shall be made available to a health care professional licensed under Chapter 4723, or 4731, of the Revised Code and authorized by such chapters to administer drugs.~~

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- (1) All medications and drugs are stored under proper temperature controls and secured against unauthorized access;
 - (2) All medicines and drugs, including those requiring refrigeration, shall be kept in locked storage areas and separate from materials that may contaminate the medicines and drugs such as poisonous substances; and
 - (3) Where a pharmacist is not present twenty-four hours-a-day, keys to locked contingency drug supplies are made available to a health care professional licensed under Chapter 4723. or 4731. of the Revised Code and authorized by such chapters to administer drugs.
- (F) Each nursing home ~~shall~~will ensure that the following ~~requirements~~standards regarding individual resident's drugs are met:
- (1) Appropriate drugs for an individual resident ~~shall~~, upon order of a prescriber, ~~be~~are sent with or arranged for the resident upon temporary absence other than for hospital leave.
 - (2) At the order of a prescriber, a resident's drugs ~~shall be~~are sent with or arranged for the resident upon transfer and discharge. Drugs not so ordered by the prescriber upon transfer or discharge ~~shall~~are to be returned to the pharmacy or disposed of in accordance with any applicable state or federal laws, rules and regulations.
 - (3) Upon death of a resident all drugs ~~shall~~are to be returned to the pharmacy, or disposed of in accordance with any applicable state or federal laws, rules, and regulations.
 - (4) Prior to admission, the nursing home will ensure that a prospective resident's medications will be available without an interruption in the timely administration of the medication in accordance with the resident's treatment plan. If the nursing home is notified of a change in medication in a resident's plan of care during the admission process or a medication is not available in house or will not be available through the nursing home's pharmacy supplier in time for the resident's next scheduled dose, the nursing home will:
 - (a) Contact the prescriber to obtain additional instructions and/or a prescription for an appropriate alternative medication to be provided to the resident while waiting on the original prescription to be filled and be made available to the facility; or
 - (b) If the original prescriber is not available, the nursing home will contact the nursing home medical director for the same assistance.
- (G) Paragraph (F) of this rule does not preclude a nursing home from charging a resident for medications and drugs provided to the resident upon discharge for which the resident has not already paid.
- (H) Controlled substances ~~shall~~will be ordered, dispensed, administered, and disposed of in accordance with state and federal laws and regulations.
- (I) The nursing home ~~shall~~will ensure that the pharmaceutical needs of each resident are met and that the drug regimen of each resident is reviewed and documented at least once a month by a pharmacist.
- (J) The nursing home ~~shall~~will coordinate the ordering of medicines, drugs and biologicals for hospice patients

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with the appropriate hospice care program.

(K) In event of an emergency evacuation or closure, sufficient medications and records of residents' orders must be available for the resident to ensure continuity of care.

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3701-17-18 Food and nutrition.

- (A) Each nursing home ~~shall~~will have a kitchen and other food service facilities which are adequate for preparing and serving food for all ~~residents. The nursing home shall~~and develop and implement a policy addressing its method for accommodating religious, ethnic and cultural and personal preferences.
- (B) The nursing home ~~shall~~will store, prepare, distribute and serve food under sanitary conditions and in a manner that protects it against contamination and spoilage in accordance with food service requirements of Chapter 3717-1 of the Administrative Code.
- (C) Each nursing home ~~shall~~will provide at least three nourishing, palatable, and appetizing meals daily to all residents at regular hours comparable to normal mealtimes in the community.~~The meals shall be that are~~ varied and meet the nutritional needs of the residents and be capable of providing the dietary referenced intake of the "Food and Nutrition Board" of the "National Academy of Science." Food ~~shall~~will be prepared and served in a form that meets the resident's individual needs based on the assessment conducted pursuant to rule 3701-17-10 of the Administrative Code, the plan of care ~~required by~~set forth in rule 3701-17-14 of the Administrative Code, allow for resident choice, and accommodate religious, ethnic, cultural and personal preferences. There ~~can~~shall be no more than sixteen hours between the evening meal and breakfast. Each nursing home ~~shall~~will offer a nourishing snack, consisting of a choice of beverages and a food item from a basic food group, after the evening meal. Food substitutes of similar nutritive value ~~shall are to~~ be offered to residents who ~~refuse~~choose the alternate the food served and serving size may be adjusted according to resident preference. The nursing home ~~shall~~will accommodate a resident's preference or medical need to eat at different intervals.
- (D) A nursing home may provide any alternate format of meal service that otherwise meets the requirements of this rule, if the residents agree to participate in the meal service and the home:
- (1) Ensures safe food handling practices to prevent contamination of food being served; and
 - (2) Assists residents when necessary.
- (E) Each nursing home ~~shall~~will maintain at all times sufficient food supplies for residents.~~The home shall maintain including~~ at least two days' supply of perishable food items and at least one week's supply of staple food items. The amount of such supplies ~~shall~~will be based on the number of meals that the nursing home provides and the nursing home's census.
- (F) Each nursing home ~~shall~~will have planned menus for all meals that are approved by the dietitian required by paragraph (K) of this rule, for all meals at least one week in advance. The nursing home ~~shall~~will maintain records for all meals, including therapeutic diets, as served. The meal records shall be kept on file in the nursing home for at least three months after being served and made available to the director upon request.~~The records shall and~~ indicate the date that each meal was served along with any food substitutions from the menu.
- (G) The nursing home will provide~~Safesafe~~, fresh, and palatable drinking water ~~shall be that is~~ accessible ~~for to~~ residents at all times.

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(H) All diets ~~shall~~will be:

- (1) Ordered by a physician or other licensed health professional acting within their scope of practice;
- (2) Prepared and provided in accordance with the instructions of a dietitian pursuant to the diet order; and
- (3) Adjusted as ordered by a physician, dietitian or other licensed health professional acting within their scope of practice.

(I) The nursing home ~~shall~~will monitor each resident's nutritional intake and make adjustments in accordance with the resident's needs. Notification of any significant unplanned or undesired weight change ~~shall~~will be made to the resident's attending physician and the dietitian required by paragraph (K) of this rule. "Significant unplanned or undesired weight change" means a five per cent weight gain or loss over a one month period, a seven and one-half per cent or more weight gain or loss over a three month period, or a ten per cent or more weight gain or loss over a six month period.

(J) Each nursing home ~~shall~~will employ a dietitian, who may be hired on a full-time, part-time or consultant basis, to plan, direct and implement dietary services that meet the residents' nutritional needs and comply with the ~~requirements~~standards of this rule. If the home does not have the full-time equivalent of a dietitian, the nursing home ~~shall~~will designate a person who meets the qualifications specified in paragraph (H) of rule 3701-17-07 of the Administrative Code, to serve as the food service manager. The part-time or consultant dietitian, at a minimum, ~~shall~~will consult monthly, or sooner, if needed, with the food service manager. Each nursing home ~~shall~~will ensure that the dietitian performs the following functions:

- (1) Assesses, plans, monitors and evaluates nutritional services that meet the needs of the residents;
- (2) Oversees the development and implementation of policies and procedures which assure that all meals are prepared and served as ordered and that food service personnel maintain safe and sanitary conditions in procurement, storage, preparation, distribution and serving of food;
- (3) Monitors food preparation staff and staff responsible for carrying out the duties specified in this rule;
- (4) For each resident receiving a therapeutic diet, on an on-going basis:
 - (a) Determine that the diet ordered is appropriate according to the resident's individual nutritional care plan;
 - (b) Monitor the resident's nutritional intake and acceptance of the diet;
 - (c) Evaluate the home's compliance in the provision of the diet; and
 - (d) Adjust nutritional care plans and diets as needed.
- (5) Oversees, or arranges for, the training of staff in performing the duties specified in this rule and in the preparation of foods for all diets. Trained unlicensed staff, including the dietary manager, may perform routine tasks that:
 - (a) May be assigned pursuant to Chapter 4759. of the Revised Code and this rule; and
 - (b) Do not require professional judgment or knowledge.

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(K) Tube feedings and parenteral nutrition ~~shall~~will be ordered by a physician or other licensed health professional acting within their scope of practice and administered by the appropriate licensed health professionals in accordance with acceptable standards of practice. Tube feedings ~~shall~~are not authorized to be used for convenience or when in conflict with treatment decisions, or a resident's advance directive, in accordance with applicable provisions of Chapters 1337. and 2133. of the Revised Code.

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3701-17-19 Records and reports.

(A) Nursing homes ~~shall~~will keep the following records and such other records as ~~the director may require~~follows:

- (1) An individual medical record ~~shall~~will be maintained and routinely updated for each resident. Such record ~~shall~~will be started immediately upon admission of a resident to the home and ~~shall~~ contain the following:
 - (a) ~~Admission-Identification~~ record: Name, residence, age, ~~sex~~gender, race/ethnicity, religion, date of admission, name and address of nearest relative or current guardian, admission diagnoses from referral record and name of the resident's physician and, if applicable, other licensed health professional acting within the applicable scope of practice. If applicable, the contact information of the nearest relative or current guardian is obligated to be reviewed and updated every six months to ensure appropriate notification in the event of an emergency, quarantine, or closure.
 - (b) Referral record. All records, reports, and orders which accompany the resident ~~as required by~~ in accordance with rule 3701-17-10 of the Administrative Code.
 - (c) Nursing notes and care notes. A note of the condition of the resident on admission and subsequent notes as indicated to describe changes in condition, unusual events or accidents. Other individuals rendering services to the resident may enter notes regarding the services they render.
 - (d) Medication administration record. A doctor's order sheet upon which orders are recorded and signed by the physician or other licensed health professional acting within the applicable scope of practice, including telephone orders ~~as required by~~ in accordance with rule 3701-17-13 of the Administrative Code; a nurse's treatment sheet upon which all treatments or medications are recorded as given, showing what was done or given, the date and hour, and signed by the nurse giving the treatment or medication; or other documentation authenticating who gave the medication or treatment.
 - (e) Resident progress notes. A sheet or sheets upon which the doctor, dentist, advanced practice nurse and other licensed health professionals may enter notes concerning changes in diagnosis or condition of the resident. ~~Resident including a resident's~~ refusal of treatment and services ~~shall also be documented in the progress notes.~~
 - (f) Resident assessment record. All assessments and information ~~required by~~ in accordance with rule 3701-17-10 of the Administrative Code.
 - (g) Care plan. The plan of care ~~required by~~ set forth in rule 3701-17-14 of the Administrative Code.
 - (h) Photograph. A photograph is ~~only~~ necessary for residents who have been identified as being a elopement risk. The photograph of the resident ~~shall~~will be updated annually.
- (2) The nursing home ~~shall~~will maintain all records ~~required~~obligated by state and federal laws and regulations, as to the purchase, delivery, dispensing, administering, and disposition of all controlled substances including unused portions.

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- (3) The nursing home ~~shall~~will maintain a record of all residents admitted to or discharged from the nursing home.
- (B) A record ~~shall~~will be kept showing the name and hours of duty of all persons who work in the home. ~~The nursing home shall maintain each employee's current home address in its personnel file.~~
- (C) All records and reports ~~required-maintained in accordance with~~under rules 3701-17-01 to 3701-17-26 of the Administrative Code ~~shall~~will be prepared, maintained, filed, and transmitted ~~when required~~as necessary, and ~~shall~~ be made available for inspection at all times when requested by the director or ~~his~~the director's authorized representative. The records may be maintained in electronic format, microfilm, or other method that assures a true and accurate copy of the records are available.
- (1) The nursing home ~~shall~~will maintain the records and reports ~~required by~~set forth in paragraph (A)(1) of this rule in the following manner:
- (a) ~~The home shall safeguard~~Safeguard the records and reports against loss, destruction, or unauthorized use and store them in a manner that protects and ensures confidentiality.
 - (b) ~~The home shall maintain~~Maintain the records and reports for seven years following the date of the resident's discharge, except if the resident is a minor, the records ~~shall~~will be maintained for three years past the age of majority but not less than seven years.
 - (c) Upon closure of the home, the operator ~~shall~~will provide and arrange for the retention of records and reports in a secured manner for not less than seven years. ~~The operator shall and~~ notify the director of the location where the records will be stored.
- (2) The nursing home ~~shall~~will maintain all other records and reports ~~required by~~as set forth in rules 3701-17-01 to 3701-17-26 of the Administrative Code for seven years.
- (3) Upon the request of the resident or former resident, or the resident's or former resident's legal representative, the nursing home ~~shall~~will provide:
- (a) Access to medical and financial records and reports pertaining to the resident within twenty-four hours, excluding holidays and weekends; and
 - (b) Photocopies of any records and reports, or portions thereof, at a cost not to exceed the community standard for photocopying, unless otherwise specified by law, upon two working days advanced notice.
- (D) All records and reports ~~required-mandated~~ by Chapter 3701-13 of the Administrative Code ~~shall~~will be maintained and made available in accordance with that chapter.
- (E) Upon the change of operator of a nursing home, the records ~~required to be~~ kept pursuant to this rule ~~shall~~will be transferred to the new operator of the home.

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3701-17-20 Smoking, ~~or~~ use of flame producing devices, or electronic smoking device; waste containers and ash trays.

- (A) No employee, resident of a nursing home, visitors, or other persons in the nursing home ~~shall~~will be permitted to smoke, use an electronic smoking device as defined in section 2927.02 of the Revised Code, carry a lighted cigarette, cigar or pipe or use any spark or flame producing device in any room or area in a nursing home where oxygen is stored or in use. Approved terminals of a piped oxygen supply does not constitute storage.
- (B) "No smoking" signs ~~shall~~will be posted in areas and on doors of rooms where oxygen is stored or in use.
- (C) Except as provided for in paragraph (D) of this rule, indoor resident smoking ~~shall~~will only be permitted in separately enclosed and separately ventilated designated areas as allowed for in division (D) of section 3794.03 of the Revised Code that accommodate the needs of the smokers. Nursing homes that allow outdoor resident smoking ~~shall~~will make accommodations for residents during adverse weather conditions, public health emergencies, incidents of isolation, or quarantine.
- (1) The nursing home ~~shall~~is not allowed to designate as resident smoking areas the dining and recreation area or room, resident rooms, and areas or rooms where oxygen is stored, except smoking may be permitted in the dining and recreation areas or rooms when such areas or rooms meet the requirements of division (D) of section 3794.03 of the Revised Code and are not being used for their stated purpose.
- (2) The nursing home ~~shall~~will post smoking signs at all designated resident smoking areas. ~~The nursing home shall~~and take reasonable precautions to ensure the safety of all residents when residents smoke.
- (D) The nursing home may establish a smoke-free environment if all residents are notified of the policy prior to admission. If a nursing home establishes a policy of this nature, the nursing home ~~shall~~will continue to accommodate the needs of smokers living in the home on the effective date of the smoke-free policy by complying with the provisions of paragraph (C) of this rule.
- (E) Ash trays, waste baskets or containers where burnable materials may be placed ~~shall not~~cannot be made of materials which are flammable, combustible or capable of generating quantities of smoke or toxic gases. Ash trays and waste baskets and containers where burnable materials may be placed ~~shall~~will be noncombustible or carry a fire resistant "UL" or "FM" rating.
- (F) Ash trays ~~shall~~will be provided in all designated resident smoking areas. ~~These ash trays shall~~and be either self-closing or have a cigarette island in the middle and ~~shall~~ not have any cigarette holders located around the outside rim of the tray.

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3701-17-21 Dining and recreation rooms; utility rooms; toilet rooms.

- (A) Every building occupied as a nursing home on and in continuous operation since December 22, 1964 ~~shall~~ will have not less than one room or suitable area which ~~shall which is be~~ used for no other purposes than dining and recreation by the residents. Such room or area ~~shall will~~ be ~~so~~ located and of such size as to meet the needs of the residents and ~~shall is not authorized to not~~ be used for adult day care participants or residential care facility residents unless the home meets the square footage requirements of paragraph (B) of this rule. Any building occupied as a nursing home on December 22, 1964 that is discontinued for such use, ~~shall, if such and then use of the building is resumed~~ use is resumed, will comply with paragraph (C) of this rule.
- (B) Every building erected or converted to use as a nursing home after and in continuous operation since December 22, 1964, and before July 17, 2002, ~~shall will~~ have a room or suitable area which ~~shall will~~ be used for no other purposes than dining and recreation. The dining and recreation room or area ~~shall will~~ have a minimum total area of twenty-five square feet per resident for seventy-five per cent of the nursing home's licensed capacity. Any building licensed by the state as a nursing home on or after December 22, 1964 that is discontinued for such use, ~~shall, if such use is resumed and then use of the building is resumed is obligated to~~ comply with paragraph (C) of this rule. Any building licensed by the state as a nursing home who builds an addition or expands into previously unlicensed space, will comply with paragraph (C) of this rule.
- Each nursing home that shares the dining and recreation room or area with participants of an adult day-care program, residents of a residential care facility, or both, ~~shall will~~ provide an additional twenty-five square feet per participant, resident, or both, for seventy-five per cent of the total number of adult day-care program participants, the licensed capacity of the residential care facility, or both.
- (C) Every building erected or converted to use as a nursing home after July 17, 2002 ~~shall will~~ have a room or suitable area or areas ~~which shall be used~~ for dining purposes and a separate room or rooms, or suitable area or areas ~~which shall to~~ be used for recreational purposes. A nursing home may use the dining room or area for recreational purposes when the room or area is not being used for dining, but does not count towards the required square footage below.

- (1) Dining room or area: Twenty-five square feet per resident for the nursing home's licensed capacity.

Each nursing home that shares the dining room or area with participants of an adult day-care program, residents of a residential care facility, or both, ~~shall will~~ provide an additional twenty-five square feet per participant, resident, or both, for the total number of adult day-care program participants, the licensed capacity of the residential care facility, or both.

- (2) Recreational room or area: Twenty-five square feet per resident for seventy-five per cent of the nursing home's licensed capacity.

Each nursing home that shares the recreation room or area with participants of an adult day-care program, residents of a residential care facility, or both, ~~shall will~~ provide an additional twenty-five square feet per participant, resident, or both, for seventy-five per cent of the total number of adult

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day-care program participants, the licensed capacity of the residential care facility, or both.

- (D) Every nursing home ~~shall~~will employ methods and have adequate facilities and supplies for clean and soiled laundry in accordance with prevailing infection control practices.
- (E) Bathrooms and toilet rooms ~~shall~~will conform to the Ohio building code.
- (F) Bathrooms and all fixtures therein ~~shall~~will ensure resident privacy and dignity in accordance with paragraph (I) of rule 3701-17-14 of the Administrative Code.
- (G) Bathrooms, toilet rooms and all the facilities therein ~~shall~~will, at all times, be kept in good repair, in a clean and sanitary condition, free from filth and accumulation of waste, and ~~shall be provided with~~provide a supply of toilet tissue. Each hand washing basin ~~shall~~will be provided with a soap dispenser. Bathrooms and toilet rooms ~~shall~~will be designed or equipped to assure full visual privacy for each resident.
- (H) Grab rails and other safety devices such as non-slip surfaces ~~shall~~will be provided and maintained in good repair.
- (I) In every building or addition to a building constructed or converted to use as a nursing home on or after-
~~October 20, 2001~~the effective date of this rule, ~~there shall each resident room will have~~be one room- ~~a~~ toilet room directly accessible from each resident sleeping room, except the hand washing basin may be located in either the room containing the toilet or the sleeping room. ~~No more than two residents may share a toilet room~~Toilet rooms are not to be shared between rooms.
- (J) For purposes of this rule, "bathroom" means a room or rooms conforming to the Ohio building code containing a group of fixtures consisting of a water closet, lavatory, bathtub or shower, including or excluding a bidet, an emergency floor drain, or both.

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3701-17-22 ~~General building and sanitation requirements; overhead paging~~Building, plumbing, and sanitation standards.

- (A) The building or buildings in which a nursing home is located ~~shall~~will be in compliance with the applicable provisions of the Ohio building code and ~~shall~~ have a certificate of use issued by the appropriate building authority.
- (B) All plumbing ~~shall~~will be so installed and maintained as to be free of leakage and odors and as to reasonably insure adequate health and safety protection. Plumbing fixtures in nursing homes or additions to nursing homes constructed, erected, altered or relocated after September 10, 1984, and plumbing fixtures in buildings converted into nursing homes after September 10, 1984 ~~shall~~will conform to the applicable provisions of the Ohio building code.
- (C) Lavatories, bathing facilities, and shower facilities ~~shall~~will be supplied with hot and cold running water and ~~shall~~ be regulated by approved devices for temperature control. The hot water temperature in areas used by residents ~~shall~~will be a minimum of one hundred five degrees Fahrenheit and not exceed one hundred and twenty degrees Fahrenheit.
- (D) The nursing home's water supply ~~shall~~will be adequate in quantity and of suitable chemical and bacteriological quality for drinking, culinary, and cleaning purposes. The water supply for a nursing home ~~shall~~will be taken from a public supply, if available. If from a source of supply other than a public supply, the water supply ~~shall~~will comply with all applicable local and state regulations regarding the construction, development, installation, alteration, and use of private water systems.
- (E) All liquid wastes from nursing homes ~~shall~~will be discharged into a public sanitary sewerage system, if available. Where not available, such wastes ~~shall~~will be discharged into a sewage disposal system that meets all applicable local and state regulations regarding the construction, development, installation, alteration, and use of private household sewage disposal systems. The nursing home ~~shall~~will properly maintain its sewage disposal system in good, safe working condition.
- (F) Heating, cooling, electrical, and other building service equipment ~~shall~~will be maintained in good working and safe condition.
- (G) The buildings and grounds ~~shall~~will be maintained in a clean and orderly manner.
- (H) All garbage and other refuse ~~shall~~will be disposed of immediately after production, or ~~shall~~ be stored in leak-proof containers with tight fitting covers until time of disposal, and all wastes ~~shall~~are to be disposed of in a satisfactory manner.
- (I) Adequate measures ~~shall~~will be taken to prevent the entrance of insects, rodents, and pests into any building used for a nursing home or part thereof and to prevent their infestation of the premises. Extermination of pests should be considered urgent and remediation is obligated to commence as soon as possible
- (J) The extermination of insects, rodents, and pests ~~shall~~will be done in such a manner as not to create a fire or health hazard.

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~~(K)~~ (K) ~~Beginning July 1, 2015, each nursing home shall prohibit~~ the use of overhead paging within the nursing home, except that the nursing home may permit the use of overhead paging for matters of urgent public safety or urgent clinical operations. The nursing home ~~shall~~ develop a written policy regarding its use of overhead paging and make the policy available to staff, residents, and residents' families.

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3701-17-23 Space ~~requirements~~standards; limitation of number in wards.

- (A) In every building where there is a nursing home, the premises of which were initially licensed by the state as a nursing home prior to December 22, 1964 and have been in continuous operation since being initially licensed, every room occupied for sleeping purposes by one person ~~shall~~will have a habitable floor area of not less than eighty square feet and every room occupied for sleeping purposes by more than one person ~~shall~~will have a habitable floor area of not less than eighty square feet per person. Any building licensed by the state as a nursing home prior to December 22, 1964 that is discontinued for such use ~~shall, if such use is resumed, and then use of the building is resumed is obligated to~~resumed, comply with paragraph (B) of this rule.
- (B) In every building or addition to a building, erected or converted to use or initially licensed as a home after December 22, 1964, every room occupied for sleeping purposes by one person ~~shall~~will have a habitable floor area of not less than one hundred square feet and every room occupied for sleeping purposes by more than one person ~~shall~~will have a habitable floor area of not less than eighty square feet per person. In every building occupied as a nursing home on December 22, 1964, every room added for sleeping purposes ~~shall~~will comply with this paragraph.
- (C) ~~Except as provided for in paragraph (D) of this rule, no room, ward, section, or similar division used for sleeping purposes by residents shall be occupied by more than four residents.~~ Any building licensed by the state as a nursing home on or after December 22, 1964 that is discontinued for such use, ~~shall, if such use is resumed, and then use of the building is resumed is obligated to~~ comply with paragraph (D) of this rule.
- (D) In every building or addition to a building, erected or converted to use or initially licensed as a home on or after July 17, 2002, every room occupied for sleeping purposes by residents ~~shall~~will be occupied by no more than two residents and ~~shall~~ be designed to assure full visual privacy, as defined in paragraph (B) of rule 3701-17-16 of the Administrative Code, for each resident.

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3701-17-24 Temperature regulation in homes.

(A) For the purposes of this rule:

- (1) "Resident area" means any area within a nursing home that is occupied at any time by a resident except for an area, such as a greenhouse, that is specifically designed to be kept a higher temperature.
- (2) "Temperature range" means between seventy-one degrees fahrenheit and eighty-one degrees fahrenheit.

- (B) Each nursing home ~~shall~~will maintain the temperature within the temperature range and the humidity in resident areas at a safe and comfortable level and have a device, such as a hand held hygrometer or infrared thermometer, to check the ambient temperature of the rooms.
- (C) Residents in rooms containing separate heating and cooling systems who are capable of controlling them may maintain the temperature of their rooms at any level they desire except the nursing home ~~shall~~will take appropriate intervention if a resident's desired temperature level adversely affects or has potential for adversely affecting the health and safety of the resident or the health, safety and comfort of any other resident sharing the resident room.
- (D) Each nursing home in consultation with its medical director, ~~shall~~will develop written policies and procedures for responding to temperatures in resident areas that are outside the temperature range as defined in paragraph (A) of this rule. The policies and procedures ~~shall~~will be signed by the medical director and ~~shall~~ include at least the following:
- (1) An identification of available sites within or outside the nursing home to which residents can be relocated temporarily and of other suitable health care facilities that will be available to receive transfers of residents if the temperature level adversely affects or has potential for adversely affecting the health and safety of residents;
 - (2) Measures to be taken to assure the health, safety and comfort of residents who remain in the nursing home when temperatures are outside the temperature range as defined in paragraph (A)(2) of this rule; and
 - (3) Identification of the circumstances that require notification of the medical director or a resident's attending physician or that require medical examinations or other medical intervention and appropriate time frames for these actions.
- (E) Whenever the temperature in any resident area is outside the temperature range as defined in paragraph (A)(2) of this rule, the nursing home ~~shall~~will immediately evaluate the situation and monitor residents at risk and take appropriate action to ensure the health, safety and comfort of its residents, including but not limited to implementation of the policies and procedures developed under paragraph (D) of this rule. The nursing home ~~shall~~will document all action taken under this paragraph and ~~shall~~ maintain, on site, documentation of action taken during the current calendar year and during the preceding calendar year.
- (F) Each nursing home ~~shall~~will maintain appropriate arrangements with qualified persons that provide for emergency service in the event of an electrical, heating, ventilation or air conditioning failure or malfunction and ~~shall~~ maintain documentation of the arrangements such as employment or other written agreements. The nursing home ~~shall~~will ensure that all necessary repairs are completed within forty-eight hours or less. If,

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for reasons beyond the nursing home's control, repairs cannot be completed timely, the nursing home ~~shall~~ will take any necessary action, as specified in paragraph (E) of this rule, and shall provide for the repairs to be completed as soon as possible.

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3701-17-25 Disaster preparedness, fire and carbon monoxide safety.

- (A) Each operator ~~shall~~will provide, maintain, and keep current a written disaster preparedness plan to be followed in case of emergency or disaster. A copy of the plan ~~shall~~will be readily available at all times within the nursing home. The nursing home ~~shall~~will ensure that each staff member, consultant and volunteer is trained and periodically updated about the home's disaster preparedness plan and understands their role in the event of fire or other disaster or emergency. The plan ~~shall~~will include the following:
- (1) Procedures for evacuating all individuals in the nursing home, including:
 - (a) Provisions for evacuating residents with physical or cognitive impairments;
 - (b) Provisions for transporting all of the residents of the nursing home to a predetermined appropriate facility or facilities that will accommodate all the residents in the event a disaster ~~requires~~necessitates long-term evacuation of the nursing home; ~~and~~
 - (c) A written transfer agreement, renewed biannually, with the appropriate facility or facilities for accommodating all of the residents of the nursing home in case of a disaster requiring evacuation of the nursing home; and
 - (d) A paper and electronic copy of the disaster preparedness plan will be maintained off-site to ensure access by the nursing home director or nursing home staff in the event of an emergency.
 - (2) A plan for protection of all persons in the event of fire and when the fire alarm or sprinkler system is undergoing maintenance or inoperative, and procedures for fire control and evacuation, including a fire watch in accordance with rule 1301:7-7-09 of the Administrative Code~~;~~
 - (3) Procedures for locating missing residents, including notification of local law enforcement. The operator will communicate the nature of the residents to local law enforcement and residents missing and at-risk due to physical or cognitive impairment or assessed as at risk for elopement are to be reported to local law enforcement;
 - (4) Procedures for ensuring the health and safety of residents during severe weather situations, such as tornadoes and floods, and designation of tornado shelter areas in the home; ~~and~~
 - (5) Procedures, as appropriate, for ensuring the health and safety of residents in nursing homes located in close proximity to areas known to have specific disaster potential, such as airports, chemical processing plants, and railroad tracks~~;~~ and
 - (6) Policies and procedures to ensure infection prevention and control in the event of an emergency or disaster requiring evacuation or other movement of residents.
- (B) Each operator ~~shall~~will conduct the following drills, unless the state fire marshal allows a home to vary from this ~~requirement~~standard and the nursing home has written documentation to this effect from the state fire marshal:
- (1) Twelve fire exit drills every year, approximately every three months on each shift to familiarize nursing

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home personnel with signals and emergency action ~~required~~necessary under varied times and conditions. Fire exit drills ~~shall~~will include the transmission of a fire alarm signal to the appropriate fire department or monitoring station, verification of receipt of that signal, and simulation of emergency fire conditions except that the movement of infirm and bedridden residents to safe areas or to the exterior of the structure is not ~~required~~necessary. Drills conducted between nine p.m. and six a.m. may use a coded announcement instead of an audible alarm. The nursing home ~~shall~~will reset the alarms after each drill; and

- (2) At least two disaster preparedness drills per year, one of which ~~shall~~will be a tornado drill ~~which shall occur~~ during the months of March through July.
- (C) Each operator ~~shall~~will keep a written record and evaluation of each conducted drill and practice which ~~shall include~~includes the date, time, employee attendance, effectiveness of the plan, and training format used. This record ~~shall~~will be on file in the nursing home for three years.
- (D) Each operator ~~shall~~will provide and post in a conspicuous place in each section and on each floor of the nursing home a correctly-oriented, wall-specific floor plan designating room use, locations of alarm sending stations, fire extinguishers, fire hoses, exits and flow of resident evacuation.
- (E) Each operator ~~shall~~will provide for annual training in fire prevention for regularly scheduled staff members on all shifts, to be conducted by the state fire marshal or township, municipal, or local legally constituted fire department. Semi-annually, the~~The~~ operator ~~shall~~will require ensure that all staff members ~~to be are~~ periodically instructed in the home's fire control and evacuation and disaster procedures and kept informed of their duties under the evacuation plan.
- (F) Each operator ~~shall~~will conduct at least monthly a fire safety inspection which ~~shall be~~is recorded on forms provided by the department and kept on file in the nursing home for three years.
- (G) ~~Each~~If applicable, each nursing home ~~shall~~will install and maintain carbon monoxide alarms or carbon monoxide detectors in accordance with ~~manufacturer's directions. Carbon monoxide alarms shall be installed in the following locations~~the Ohio fire code.:
 - ~~(1) On the ceiling of each room containing a permanently installed fuel burning appliance; and~~
 - ~~(2) Centrally located on every habitable level and in every heating/ventilation/air conditioning zone of the building.~~
- ~~(H) Nursing homes licensed as such prior to the effective date of this rule have twelve months to come into compliance with paragraph (G) of this rule.~~
- ~~(I) For purposes of this rule:~~
 - ~~(1) "Carbon monoxide alarm" means a single or multiple station alarm tested to underwriters laboratory standard 2034, that is intended for the purpose of detecting carbon monoxide gas and alerting occupants by a distinct audible signal comprising an assembly that incorporates a sensor, control components, and an alarm notification appliance in a single unit operated from a power source either located in the unit or obtained at the point of installation;~~

*****DRAFT - NOT FOR FILING*****

- ~~(2) "Carbon monoxide detector" means a device tested to underwriters laboratory standard 2075 that is intended to be connected to a carbon monoxide detection system for the purpose of detecting carbon monoxide gas and alerting occupants by a distinct and audible signal; and~~
- ~~(3) "Carbon monoxide detection system means" a system of devices that consists of a control panel and circuits arranged to monitor and annunciate the status of carbon monoxide detectors and to initiate the appropriate response to those signal.~~

(H) Each nursing home will notify the director by phone or electronic mail when there is an interruption of normal business services due to an emergency or a disaster involving the nursing home.

*****DRAFT - NOT FOR FILING*****

3701-17-26 Variances.

- (A) The director may grant a variance from the ~~requirements~~standards of rules 3701-17-01 to 3701-17-26 of the Administrative Code as will not be contrary to the public interest, where the operator shows that because of practical difficulties or other special conditions, their strict application will cause unusual and unnecessary hardship. However, no variance ~~shall~~will be granted:
- (1) That will defeat the spirit and general intent of these rules, adversely affect the health or safety of the residents, or otherwise not be in the public interest; or
 - (2) For a ~~requirement~~standard that is mandated by statute.
- (B) A request for a variance from the ~~requirements~~standards of rules 3701-17-01 to 3701-17-26 of the Administrative Code ~~shall~~will be made in writing to the director, specifying the following:
- (1) The rule ~~requirement~~standards for which the variance is requested;
 - (2) The time period for which the variance is requested;
 - (3) The specific alternative action which the nursing home proposes;
 - (4) The reason for the request; and
 - (5) An explanation of the anticipated effect granting of the variance will have on residents.
- (C) The director ~~shall~~will notify the operator, in writing, of the director's determination regarding a variance request. The director may establish conditions that the nursing home ~~shall~~will meet for a variance to be operative, a time frame for which the variance will be effective, or both.
- (D) The director ~~shall~~will notify the operator, in writing, of the director's determination to revoke a granted variance. The director may revoke a variance if the director determines that:
- (1) The variance is adversely affecting the health and safety of the residents;
 - (2) The nursing home has failed to comply with the variance as granted;
 - (3) The operator or administrator notified the department that the owner or administrator wishes to relinquish the variance; or
 - (4) The variance conflicts with a statutory change thus rendering the variance invalid.
- (E) The refusal of the director to grant or revoke a variance or waiver, in whole or in part, ~~shall~~will be final and ~~shall~~ not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code.
- (F) A variance or waiver approved by the director does not serve as precedent for other variance or waiver requests.



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Health

Rule Contact Name and Contact Information:

Olivia Igel 614-420-5505

Regulation/Package Title (a general description of the rules' substantive content):

Nursing Home Facility Licensure

Rule Number(s): 3701-17-01 and 3701-17-26

Submission for CSI Review: January 30, 2024

Public Comment Period End Date: February 08, 2024

Rule Type/Number of Rules:

New/ X rules

Amended/ X rules (FYR? X)

No Change/ rules (FYR? X)

Rescinded/ X rules (FYR? X)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☒ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Rules 3701-17-01 to 3701-17-26, collectively, serve to regulate nursing home facilities. Such facilities provide care and services to adults who, by reason of age and/or infirmity elect to receive or require the provision of such care.

Amended

3701-17-01

This rule lists the definitions of terms used in rules 3701-17-01 to 3701-17-26 of the Administrative Code.

Amendments include adding, modifying, and updating terms to meet current professional standards, including chemical restraint,” “elopement,” and “skilled nursing.”

3701-17-02

This rule states that rules 3701-17-01 to 3701-17-26 of the Administrative Code apply to all nursing homes.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly.

3701-17-03.1

This rule states the fee (\$2,250.00) for expedited initial inspections of nursing homes.

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Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly.

3701-17-04

The rule sets forth the requirements for determining a nursing home's licensing capacity.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and update a reference to "adult care facility" which are now called "residential facilities" and are licensed by the Ohio Board of Mental Health and Addiction Services.

3701-17-05

This rule summarizes certain actions prohibited for applicants, nursing homes, staff, and other individuals.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, reformat paragraphs for clarity and flow of information, and clarify that a guest of a staff member is considered a transient guest.

3701-17-06

This rule outlines the responsibilities of the nursing home administrator and the operator, as well as requirements for quality assurance and performance improvement (QAPI).

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and add additional criteria to the existing reporting requirements. These include resident elopements, cash on delivery requirements from vendors for past non-payment, non-payment of taxes, and inadequate supplies. The rule has been further amended to require the administrator to notify the director of interruptions to services, lack of staff, and a known change to the owner or operator of the home. Finally, the rule has been amended to clarify who should be involved in the QAPI.

3701-17-07

This rule sets forth the qualifications for health personnel including physicals, testing, licensing, and criminal records checks for direct care providers. Additionally, the rule outlines the responsibilities of the activities director, food service manager, medical and nursing, and operators.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, clarify that infection control is part of the required orientation and training for staff, and that current disciplinary actions against a professional license disqualify that individual from employment by the facility.

3701-17-07.1

This rule details the required training and competency evaluation for state tested nurse aides working in long term care facilities.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly

3701-17-07.2

This rule sets forth the required training for, and how a dining assistant may be used in a nursing home. The rule also includes an appendix that has the dining assistant program curriculum.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly. Additionally, the rule has been amended to allow for eight hours of didactic training to be provided online with an instructor present to answer questions. The curriculum in Appendix A has been updated to reflect the new language.

3701-17-07.3

This rule sets forth the training, testing, and work experience requirements that a nurse aide must meet to be placed and retained on the Nurse Aide Registry.

Amendments are limited to removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and adding clarifying language where appropriate.

3701-17-08

This rule establishes the minimum personnel requirements for nursing homes, including nursing, dietary, activities, and ancillary staff.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and adding clarifying language where appropriate. The rule has been further amended to require homes to have a designated infection prevention and control coordinator and homes with one hundred or more residents to employ an administrator on a full-time basis and to have the administrator designate another staff member to act in their stead when they are absent. Finally, the home is required to check and update employee contact information at least twice a year.

3701-17-09

This rule establishes parameters and personnel requirements for ongoing activities programs, social services, chaplain services, mail, and access to technology.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and adding electronic mail and teleconferencing on a computer or other device to the communication options available to residents. Finally, staff are required to assist residents with their communication devices as necessary and provide outdoor visitation in the event of emergencies or public health emergencies.

3701-17-10

This rule details the requirements for resident medical assessments, both annual and periodic, as well as advanced care planning for residents.

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Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and add to the assessment criteria to determine what type of assistance a resident may require. These criteria include a head to toe skin assessment, ability to conduct activities of daily living, risk for elopement, and planning for discharge if that is the choice of the resident. Finally, the home is required to assess whether residents who smoke can do so safely on their own or if they require a smoking apron or observation.

3701-17-12

This rule establishes notification and reporting requirements for nursing homes when residents have a change in health status.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and report elopements to the Director and elopements involving cognitively impaired elopements to the local law enforcement.

3701-17-13

This rule requires each nursing home to have a medical director and establishes the medical directors' duties, including periodic evaluation of residents. The rule also requires each home to ensure that every resident is under the supervision of a physician.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, require the medical director to review all deficiency statements pertaining to the home and to make themselves or their designee available in-person or on-call during emergencies, evacuations, closures, and decertification or licensure actions.

3701-17-14

This rule details the requirements for resident care plans, transfer and discharge responsibilities of the home, and coordination of care when the resident is receiving hospice services.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, require discharge planning to begin upon admission for residents who wish to be discharged, and report elopements involving cognitively impaired residents to local law enforcement.

3701-17-15

This rule outlines how restraint may be used in nursing homes, including the need for a physician's order and periodic review of the restraint. The rule also bars transitional holds and prone restraints in homes.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly.

3701-17-16

This rule sets forth what equipment and supplies a nursing home must have to meet the needs of residents, including mattresses, dressers and other bedroom items not furnished by the residents.

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Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, clarify that a resident can choose an alternate piece of furniture to sleep in, the home must maintain a bed for the resident regardless of where they choose to sleep, windows will have blinds or curtains the resident or staff can open, and that a call system must be accessible to the resident in a manner most appropriate for their abilities and be within reach.

3701-17-17

This rule sets forth what medicines and drugs the nursing home is required to obtain. The rule also details to whom the drug should be administered and how they should be labeled.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, has been reformatted to improve the flow of information, medication and records for each resident must be available during emergencies and evacuations, and medications must be available or arranged to be available in accordance with a resident's plan of care upon admission.

3701-17-18

This rule outlines the food and nutrition requirements in nursing homes, including what meals must be served. The rule also requires a nursing home to employ a dietician to oversee the dietary service of the home.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly.

3701-17-19

This rule outlines what records are to be kept by a nursing home and for how long, requires the home to note the resident's Medicare Part D plan, if any, in the resident's admission record, and to require a photograph of the resident, if the resident consents.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and the facility must review and update contact information for each resident's relative or guardian, if applicable, every six months.

3701-17-20

This rule sets forth requirements for smoking and fire safety requirements for ashtrays and waste containers and to require a home that permits outdoor smoking to make accommodations for residents during adverse weather conditions.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, incorporate electronic smoking devices (vapes) into smoking prohibitions, and make arrangements for residents who smoke during inclement weather, public health emergencies, isolation, or quarantine.

3701-17-21

This rule outlines the space requirements for nursing home dining and activity areas. The rule also details the requirements for toilet rooms in nursing homes. This rule has been amended to clarify the timeframes for compliance with the dining and activity room requirements: (1) prior to December 22, 1964; (2) between December 22, 1964 and July 17, 2002; and (3) after July 17, 2002.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and clarify the square footage requirements for dining and recreation rooms when a building has been closed and reopens and that toilet rooms are not allowed to be shared by rooms.

3701-17-22

This rule sets forth plumbing, building and sanitation requirements for nursing homes, and also bans the use of overhead paging.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly, clarify that pest extermination should be considered urgent and remediation should commence as soon as possible, and remove an outdated paragraph pertaining to overhead paging.

3701-17-23

This rule establishes space and occupancy requirements for resident sleeping rooms with 3 square footage and room capacity requirements based on the date the home was licensed: (1) prior to December 22, 1964; (2) between December 22, 1964, and July 17, 2002; and (3) after July 17, 2002.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and clarify that buildings or rooms taken out of service and then reopened are allowed to have no more than two residents.

3701-17-24

This rule establishes the temperature range allowable in nursing homes, between 71 and 81 degrees Fahrenheit, requires the home to develop a plan for resident health and safety when the temperature in the home is outside of the range, and requires repairs to be made in less than 48 hours when the HVAC system is incapable of maintaining appropriate temperatures.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and the home is required to have a device, such as a hand held hygrometer or infrared thermometer to check the ambient temperature of rooms.

3701-17-25

This rule sets forth the disaster preparedness requirements in the event of fire or another emergency. The rule also requires emergency evacuation drills, a plan for protection of all persons in the event of fire, to include a fire watch, notice to the Ohio missing adult alert system when a

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resident is missing, and for staff fire training to be conducted by the state fire marshal or township, municipal, or local legally constituted fire department.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly. Additional amendments require the home to notify the director when there is an interruption of services due to emergency or disaster, report elopements to the director and elopements of cognitively impaired residents to local law enforcement, maintain a copy of the disaster preparedness plan offsite, and have policies and procedures in place to ensure infection prevention and control during evacuation or other movement of residents.

3701-17-26

This rule sets forth the procedures for requesting and granting a variance to the requirements of Administrative Code Chapter 3701-17.

Amendments include removing regulatory restrictions in accordance with SB 9 of the 134th General Assembly and that the approval of a waiver or variance for one facility does not constitute a precedent for other waivers or variances requests.

New

3701-17-03

This new rule replaces the existing rule due to the Legislative Service Commission rule drafting requirements for rules amended more than fifty percent. The rule sets forth the application for license requirements, what constitutes a complete application, what the license fee is for nursing homes (\$320.00 for every 50 persons or part thereof), the application process, conditions for issuance of a license, and circumstances in which a license can be revoked.

In accordance with HB 33 of the 135th General Assembly, the rule has been amended to incorporate statutory requirements pertaining to a Change of Operator application, specify what information must be provided as part of the licensing application, and the remedies available to the Director if a change of operator occurs without an application being submitted. Additional amendments clarify that the state and regional long-term care ombudsmen must be notified in the event of a closure or change in information regarding owners and operators previously provided to ODH.

3701-17-03.2

This new rule establishes the fee for a change of operator license application at \$3,200.

3701-17-11

This new rule replaces existing rule 3701-17-11 and establishes the tuberculosis and infection control requirements for nursing homes. These requirements include developing policies and procedures to ensure a safe, sanitary and comfortable environment for residents and to control the development and transmission of infections and diseases including standard precautions, tuberculosis facility assessments, and laundry practices.

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Amendments have been made to require nursing homes to have an infection prevention and control coordinator that works at least part-time in the facility and has the appropriate education and training to perform the job. Each home must have an infection prevention and control plan that includes tuberculosis testing in accordance with Chapter 3701-15 of the Ohio Administrative Code, surveillance, and disease reporting. Finally, each home is required to establish and implement an effective water management program to identify hazardous conditions and take steps to manage the risk of occurrence and transmission of waterborne pathogens.

Rescind

3701-17-03

This rule is being replaced by a new rule due to the Legislative Service Commission rule drafting requirements for rules amended more than fifty percent.

3701-17-11

This rule is being replaced by a new rule due to the Legislative Service Commission rule drafting requirements for rules amended more than fifty percent.

3. Please list the Ohio statute(s) that authorize the agency, board, or commission to adopt the rule(s) and the statute(s) that amplify that authority.

3721.04

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

Generally, no. While nursing homes can also be certified for participation in the federal Medicare and/or Medicaid program(s), and be subject to similar federal regulations, this chapter sets forth the state licensure requirements for oversight of nursing homes.

In the three areas these rules do implement federal requirements (namely, 3701-17-07.1, use of state tested nurse aides; 3701-17-07.2, use of dining assistants; and 3701-17-07.3, operation of a nurse aide registry).

Federal law (Titles XVIII and XIX of the Social Security Act and the regulations at 42 CFR §§ 483.154, 483.160, 483.156) require homes certified for participation in the Medicare and/or Medicaid program to use state tested nurse aides, trained dining assistants, and nurse aides to be listed on a nurse aide registry maintained by the state.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

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The rules do not exceed the federal requirements for the use of state tested nurse aides, dining assistants or the operation of a nurse aide registry.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The Department of Health is required (RC § 3721.04) to set forth regulations governing nursing homes. These rules serve to protect the health and safety of Ohioans, who, by reason of age or infirmity, live in nursing homes. The rules serve to ensure: that NHs have minimum space requirements for occupants and equipping of the buildings in which homes are housed so that residents have healthful, safe, sanitary, and comfortable conditions; the number and qualifications of personnel, including management and nursing staff are appropriate for the population served; the medical, rehabilitative and recreational services are provided in accordance with acceptable standards; that dietary services are provided to ensure residents are offered the appropriate nutritional intake; the personal and social services provided each NH are appropriate for the residents of the home; the business and accounting practices followed are in accordance with accepted standards, and patient and business records are stored in accordance standards and kept for accepted timeframes

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Successful outcomes are measured through a standard survey (inspection) process. This process is generally conducted once every fifteen months. Successful outcomes would be indicated by a finding of compliance with chapter 3701-17. Further evidence of success would be represented by the number of complaints received and the number of validated complaint surveys.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

No

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

Leading Age
Ohio Health Care Association
Ohio Academy of Senior Health Sciences
State Long-term Care Ombudsman
Ohio Department Aging
Ohio Attorney General
Elder Care Systems
Ohio Department of Medicaid
Ohio Assisted Living Association

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Ohio Department of Veterans Services
Ohio Department of Medicaid
Ohio Nurses Association
Ohio Board of Nursing

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Stakeholders were involved in the drafting of the rules and the rules directly reflect many of the recommendations from the industry and include:

- Definitions for elopement, full-time, clarifications to the skilled nursing definition.
- Addition of elements to required reporting of elopements, cash on delivery requirements from vendors, and inadequate supplies.
- Clarification of who should be involved in the home's QAPI programs as needed such as the pharmacist, resident council president, and representatives of the nurse aides.
- Excluding individuals with a current disciplinary action against their license from being employed by the home.
- Clarifying that residents who need assistance with communication devices are to receive assistance in a timely manner and homes will make arrangements for outdoor visitation when necessary.
- Residents will receive a head to toe skin assessment, a safety assessment for those residents who smoke, and a risk of elopement assessment.
- Residents who indicate an interest in being discharged will have discharge planning started as soon as their choice is made known.
- Residents may choose to sleep on an alternate piece of furniture and the facility will ensure a physical bed remains available to them and blinds, shades, or other window coverings are to be available for all windows that may be opened or closed upon resident request.
- Medications are to be available or arranged to be available in accordance with a resident's plan of care when they are admitted to the home.
-
-

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Scientific data was not used in this review.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

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ODH did not consider any alternatives to the proposed regulation. ODH is required to implement section 3721.04 of the Revised Code. The rules reflect the current statutory requirement.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The agency conducted a thorough review of the Ohio Revised Code and Ohio Administrative Code to ensure there are no other regulations in place for the licensure of nursing homes.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

An on-site survey may be initiated to determine compliance with this rule. The survey will be done by long term care program staff using a standard survey tool. This staff will have been trained in the survey process, including understanding of the regulations.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The impacted business community consists of licensed nursing homes. As of January 1, 2024, there are 935 licensed nursing homes in Ohio.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

License Fee for initial or renewal - For each state fiscal year thereafter, three hundred twenty dollars for each fifty person or part thereof.

The adverse impact of rules 3701-17-01 to 3701-17-26 include fees for licensing, staff time for reporting, personnel, record review and transcription, development of policies and procedures, as well as time completing and submitting required forms to ODH.

In general, these rules do not represent costs that are independent of those already obligated to the licensee by the virtue of their participation in the industry, including Centers for Medicare and Medicaid Services requirements for nursing facilities and skilled nursing facilities. Those costs include, but are not limited to, the costs associated with the purchase or lease of real estate, equipment, and personnel. There are also time and manpower costs associated with administrative requirements, including, but not limited to, policy development/implementation and quality assurance and performance improvement. The similar requirements set forth in Ohio's rules are unlikely to require a significant amount of time or costs in addition to that

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which is already expended by the service and the services will, more likely than not, already meet or exceed the state requirements.

Fees, as authorized in section 3721.02 of the Ohio Revised Code of \$320.00 for every 50 persons or part thereof.

Costs associated with having an administrator to work full time, 30 or more hours a week, in homes with 100 or greater residents will depend on whether the current administrator is working less than 30 hours a week. There are currently 254 homes that this requirement may impact. Costs will be dependent on the hours worked and the hourly rate of pay or salary of the administrator.

Fee for a change of operator application of \$3,200.

Time and manpower necessary to develop written plans for a Quality Assessment and Performance Improvement (QAPI) program and conduct meetings.

Time and manpower necessary to develop tuberculosis control plan and infection control policies and provide training.

If applicable, time and manpower necessary to provide dining assistant training.

Time and manpower necessary to adopt and follow disaster preparedness and fire evacuation plans.

Time and manpower necessary to prepare a waiver or variance request; both will be determined by the nature and complexity of the requirement.

The costs borne by the health care service are those generally associated with the provision of services within the industry including, but not limited to patient care planning, written policies, and employee training and development. All costs associated with policy and procedure development and training would be based upon the nature and complexity of the requirement and the staff chosen to perform the task. In most instances the administrator, physician or registered nurse would be responsible for this requirement, while training may be conducted by other health care practitioners.

Administrator: \$0.00 to an average of \$54.86 per hour; Physician: \$0.00 to an average of \$102.43 per hour; Registered Nurse: \$0.00 to an average of \$37.72 per hour; Other Healthcare Practitioners: \$23.38 per hour.*

*Figures from United States Department of Labor, Bureau of Labor Statistics, Occupational Employment and Wages for the State of Ohio, May, 2022, using the codes for Medical and Health Services Managers (11-9111), Family Practitioners (29-1215), Registered Nurses (29-1141), and All Health Care Practitioners and Technical Occupations (29-9099).

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16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify.

Regulatory restrictions have been removed in accordance with SB9.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Section 3721.04 requires ODH to establish rules for the licensure of nursing homes. These rules establish the licensure structure for Ohio nursing homes.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. The rules apply to all residential nursing homes regardless of the size of the business.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

ODH's Regulatory Ombudsman has set forth a policy for ODH to follow regarding the waiver of fines and penalties for paperwork violations and first-time offenders. ODH implements this policy as part of its business process. Information regarding this policy can be found online at: <https://odh.ohio.gov/wps/portal/gov/odh/about-us/offices-bureaus-and-departments/Office-of-General-Counsel/Statement-on-Paperwork-Violations/>

20. What resources are available to assist small businesses with compliance of the regulation?

The agency maintains program staff that can assist and provide guidance to licensees through the Bureau of Regulatory Operations and the Bureau of Survey and Certification.

<https://odh.ohio.gov/know-our-programs/nursing-homes-facilities>