

OHCA

RCF Licensure Rules Update

Today's Speakers

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Objectives

- Review Rule Status
- Timelines
- Review Changes and How to Operationalize
- Questions/Discussion

*****Remember these rules are not final!!!!**

RCF Regulations

Ohio Revised Code (ORC)

- <http://codes.ohio.gov/orc>

Ohio Administrative Code (OAC)

- <http://codes.ohio.gov/oac/>

RCF Rules

- <http://codes.ohio.gov/oac/3701-16>

Laws Vs. Rules

Laws

- Statute
- Do not have to be reviewed & require legislation to be changed

Rules

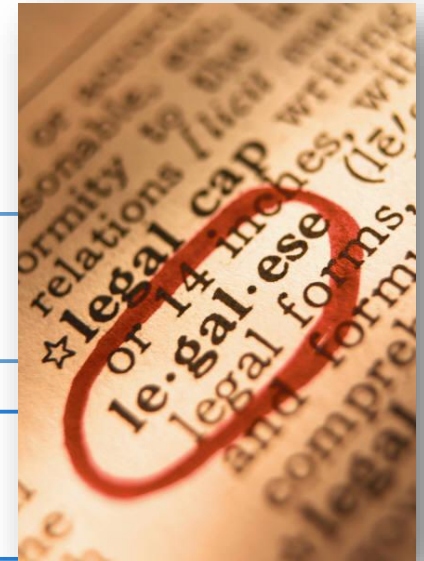
- Regulation
- 5 year rule review

Rule Defined

- Just as a statute is law, a rule is a regulation. Whereas statutes are contained within the Ohio Revised Code, rules are contained within the Ohio Administrative Code. Rules have the full force of law, but are usually more detailed. The key difference between a statute and a rule, however, is that whereas the Ohio General Assembly writes legislation, which becomes law, state agencies (like ODH) are tasked with writing rules. The primary purpose of an administrative rule is to flesh-out or implement a statute.

Rule Review

- Per Ohio law, existing administrative rules must be reviewed at least once every five years. Rule review entails deciding whether a rule should be amended, rescinded, or kept the same, subject to the CSI (Common Sense Initiative) process pursuant to Senate Bill 2 of the 129th General Assembly, and filing it with JCARR, Legislative Service Commission (LSC), and the Secretary of State.
- Rules proposed to be amended, rescinded, adopted as new, or those requiring no change are filed with JCARR, the oversight committee tasked with reviewing rules on behalf of the Ohio General Assembly. Go to [JCARR](#) for more information on the JCARR process; however, it is the primary task of JCARR to ensure proposed rule actions do not conflict with the law.



RCF Licensure Rules

- Timeline
 - Filed with CSI
 - On hold due to Water Management Rules Currently in Draft
 - May need to refile
 - Expected Final this Summer
 - ODH will provide an updated Crosswalk between R tags and Regulations
 - R tags will change numbers

Senate Bill 9 (SB9)

- Mandates a review of existing rules to identify those having one or more regulatory restrictions that require or prohibit an action.
 - Rules that include the words "shall," "must," "require," "shall not," "may not," and "prohibit" shall be considered to contain regulatory restrictions.
- Mandates that they must amend or rescind rules identified with these regulatory restrictions to reduce the total number of regulatory restrictions by 30%
 - 10% reduction by June 30, 2023
 - 20% reduction by June 30, 2024
 - 30% reduction by June 30, 2025
- Once any percentage in regulatory restrictions is reduced, the state agency may not adopt or maintain regulatory restrictions that would negate the reduction.

Gender Neutral Language

Gender Neutral Language was corrected throughout all of the rules.

- His or her = their
- she/he = they/them
- Etc.

3701-16-01

Added:

- "Advanced Practice Nurse" means a registered nurse authorized to practice as a certified nurse specialist, certified registered nurse anesthetist, certified nurse midwife or certified nurse practitioner in accordance with section 4723.41 of the Revised Code.
- "Full-time" means an individual works thirty hours or more per week.
- Home does not mean
 - (k) A facility registered to provide a pediatric transition care program under section 3712.042 of the Revised Code that is used exclusively for pediatric transition care patients.

3701-16-01 Continued

Added:

- "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 that term is defined in section 5122.01 of the Revised Code or intellectual disability as that term is defined in section 5123.01 of the Revised Code.
- Update to "Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-V),"

3701-16-02

Nothing substantial

3701-16-03

- Completely changed.
- This was all part of the application, but now it is spelled out in the rule.

3701-16-03.1 & 3701-16-04

Nothing substantial

3701-16-05

- Administrator hours have not changed, even though they initially wanted to change them.
 - 20 hours unless located on same lot or in same building as NH and owned and operated by same entity, then can have one cover both full time, defined as 32 hours/er calendar week.

Added:

- Each residential care facility will not admit residents in excess of the number for which it is able to provide consistent nursing coverage and other appropriate staffing levels based on the volume and needs of the residents.

3701-16-06

First Aid training:

- Allows training to be online or in-person if done through the American Red Cross or American Heart Association.
- If done by another adds LPN under the direction of an RN to the available instructors.
- (See OHCA's First Aid program for facility use)

3701-16-07

Written resident agreement:

Adds:

- In the event that a durable power of attorney for healthcare is enacted or when the physician determines that the resident is no longer able to make reasoned decisions to the agreement, the facility is obligated to provide a copy of the agreement to the individual designated by the resident to make decisions and consent on the resident's behalf, if any.

Advance Directives:

Adds:

- The addition of DNR orders to the required policies and rights that must be provided to residents or their sponsors.

3701-16-08

Nothing substantial

3701-16-09

Clarified: Personal care services or skilled nursing care are provided by a residential care facility when:

- (a) They are provided by a person:
 - (i) Employed by the facility;
 - (ii) Associated with the facility; or
 - (iii) Who is a related party to the facility;
- (b) By another person pursuant to an agreement to which neither the resident nor their sponsor is a party;
- (c) By another person pursuant to an agreement the facility requires a resident or their sponsor to contract with a person to receive services; or
- (d) The resident does not have free choice of service provider.

For purposes of this rule “related party” means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the owner or operator of the residential care facility

3701-16-09 Continued

Controlled Substances:

Added:

- and ensure policies and procedures are in place to prevent the misappropriation or theft of controlled substances;
- Changed the definition of chemical restraint to any drug that is used for discipline or staff convenience and not prescribed to treat medical symptoms

3701-16-10

Nothing substantial

3701-16-11

- Clarifies that the local daily newspaper can be in either digital or paper format.
- Adds the internet to the variety of activities

3701-16-12

Incidents:

- Adds that facilities must include information that will enable staff to identify to the director upon request, the resident involved in an incident.

3701-16-12 Continued

Infection Control:

- Each residential care facility will establish and implement appropriate written policies and procedures to assure a safe, sanitary, and comfortable environment for the residents and to control the development and transmission of infections and diseases. Each residential care facility is obligated to establish an infection prevention and control program to monitor compliance with the home's infection prevention and control policies and procedures, to prevent, investigate, and control infections in the home, to institute appropriate interventions, and ensure all staff are appropriately trained on the home's infection prevention and control protocol. An effective infection control program includes:

3701-16-12 Continued

Infection Control:

- (1) Each residential care facility is obligated to designate one or more individuals as the infection prevention and control designee and 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 control designee is responsible for the facility's infection prevention and control program. The infection prevention and control designee will have:
 - (a) Completed post-secondary education in a health-related field including but not limited to medicine, nursing, medical technology, laboratory technology, public health, epidemiology, or biology;
 - (b) Have education, training, or experience in infection control; and
 - (c) Work **at least part-time at** the facility or hold a contract to provide infection prevention and control at least part-time at the facility.

3701-16-12 Continued

Infection Control:

- TB did not change.
- It changed in 2012, but I still get a lot of questions, so let's review.
- (2) A tuberculosis control plan that is based on the an assessment of the facility and 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 and "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and Centers for Disease Control and Prevention, 2019," MMWR May 17, 2019, 68(19);439-443.

3701-16-12 Continued

Infection Control:

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

3701-16-12 Continued

Infection Control:

- 4) 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.

3701-16-12 Continued

Infection Control:

- (5) 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;
- (6) 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; 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.

3701-16-12 Continued

Water Management:

- Each residential care facility 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.

3701-16-12 Continued

Adult Day:

- If the residential care facility provides an adult day care program which is located, or shares space, within the same building as the residential care facility, shares staff between the program and the facility, or where the day care participants at any time intermingle with residents of the facility, the requirements of this rule are also applicable to participants of the adult day care program.

3701-16-13

Added:

- A copy of the disaster preparedness plan is to be maintained electronically to ensure off-site access in the event of emergency.
- Each residential care facility will notify the director when there is an interruption of normal business services due to an emergency or a disaster involving the facility.

Carbon Monoxide:

- Removed most of the language and just put the following:
- Each residential care facility is obligated to install carbon monoxide detectors in accordance with section 915. of the Ohio Fire Code.

Smoking:

- Clarified that electronic smoking devices and a vapor product are to be considered the same as smoking.

3701-16-14

Nothing substantial

3701-16-15

Alternate bed:

- Added: If the resident chooses to sleep on an alternate piece of furniture, such as a reclining chair, the facility is obligated to ensure that a bed meeting the standards of this rule remains available to the resident;

3701-16-16

Temperature

- Requires facilities have a device, such as a hand held hygrometer or infrared thermometer, to check the ambient temperature of the rooms.

3701-16-17

Added:

- If applicable, the contact information of the nearest relative or guardian is obligated to be reviewed and updated every six months to ensure appropriate notification in the event of an emergency, quarantine, or closure.

3701-16-18

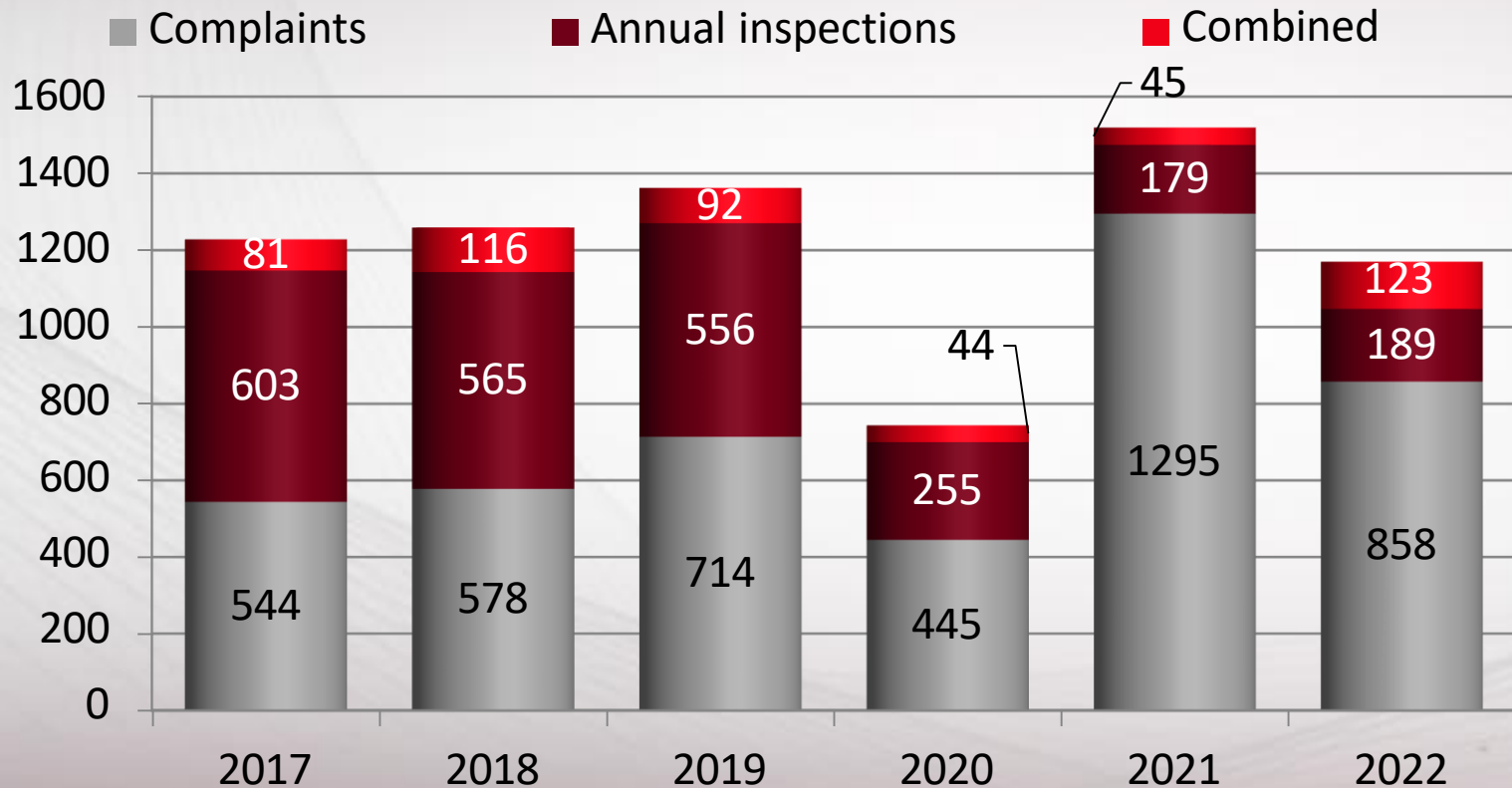
Nothing substantial

2022 Residential Care Facility (RCF) Data

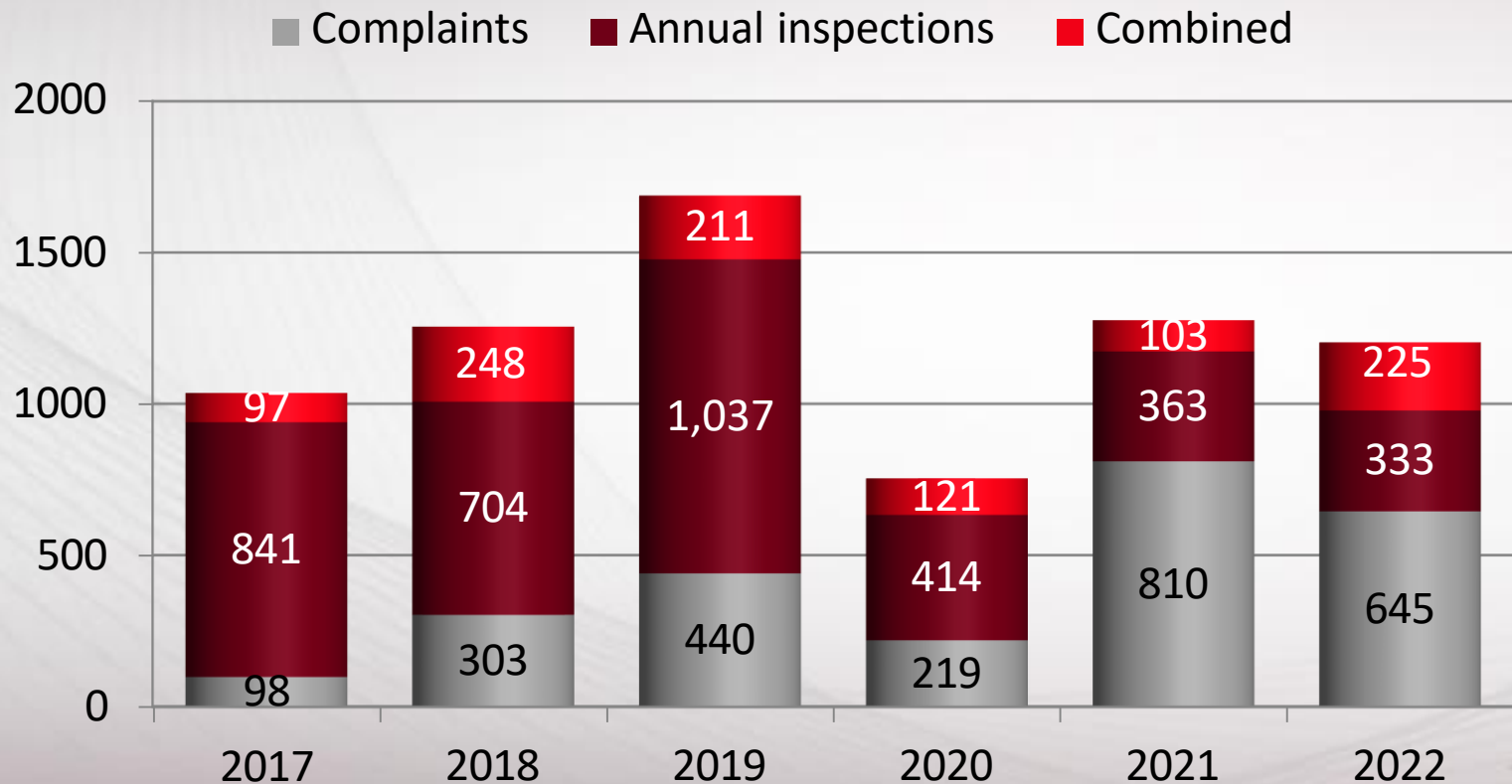
Annual Inspections & Complaint Investigations
Bureau of Survey and Certification (BOSC)



Number of Annual Inspections and Complaint Investigations per Calendar Year



Number of Violations per Calendar Year



Top Ten 2022 RCF Violations

- R614 – Fire Drills and Self-Evacuation (88)
- R559 – Food Storage and Contamination (79)
- R339 – Medications Given as Prescribed (48)
- R711 – Rights of Residents To Be Free From Abuse (47)
- R392 – Infection Control (46)
- R333 – Resident Personal Care Services Provided (46)
- R391 – Resident Incidents (41)
- R338 – Medication Administration (37)
- R390 – Changes in Resident Health Status (36)
- R661 – Housekeeping/Maintenance, Garbage Receptacles, and Pest Control (35)

Contact Information

Bureau of Survey and Certification

Ohio Department of Health

(614) 752-9524

Social Media

Facebook



- www.facebook.com/OHCA.Ohio

Twitter



- https://twitter.com/OHCA_Ohio

LinkedIn



- www.linkedin.com (*Ohio Health Care Association*)

Instagram



- www.instagram.com/ohiohealthcareassociation

What questions do you have?

