

OHCA

SNF 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/>

Nursing Home Rules

- <http://codes.ohio.gov/oac/3701-17>

Laws Vs. Rules

Laws

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

Rules

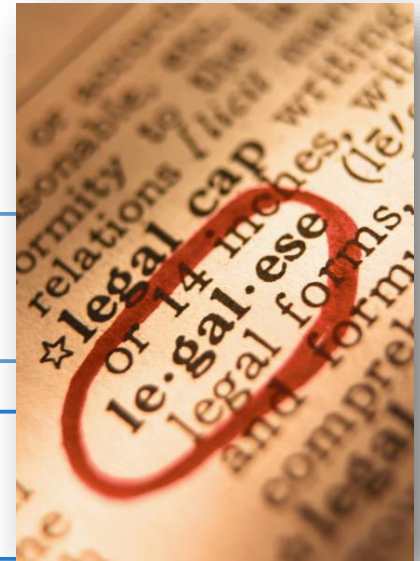
- Regulation
- 5 year rule review

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 Rule review entails deciding whether a rule should be amended, rescinded, or kept the same, subject to the CSI (Common Sense Initiative) process pursuant to Senate Bill 2 of the 129th General Assembly, and filing it with JCARR,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- Rules proposed to be amended, rescinded, adopted as new, or those requiring no change are filed with JCARR, the oversight committee tasked with reviewing rules on behalf of the Ohio General Assembly.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.



SNF Licensure Rules

- Timeline
 - Filed for public comment
 - Not expected to be final until next year
 - ODH will provide an updated Crosswalk between N tags and Regulations

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.

3701-17-01

Changed:

- Activities of daily living" means bed mobility, locomotion and transfer, bathing, grooming, [oral hygiene](#), toileting, dressing, and eating.
- "Chemical restraint" means any drug that is used for discipline or staff convenience and not prescribed to treat medical symptoms.
- "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.

Added

- "Elopement" occurs when a resident leaves a home or safe area without authorization or without supervision and/or any authorization to do so. A situation in which a resident with decision-making capacity leaves the home will not be considered an elopement unless the home has reason to suspect, or the circumstances surrounding the resident's departure indicate, that the departure is unusual or atypical.
- "Full-time" means an individual works thirty hours or more per week.

3701-17-01 Continued

Edited/Reformatted:

- "Skilled nursing care" means procedures that **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 **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 and including intravenously-administered medication;
 - (5) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration. This is including but not limited to:
 - (a) Treatments and services to prevent or heal pressure sores;
 - (b) Tube feeding management;
 - (c) Respiratory and trachea care management;
 - (d) Suctioning; and
 - (e) Pain management.

3701-17-02

Nothing substantial

3701-17-03

- Completely changed.
- This was all part of the application, but now it is spelled out in the rule.
 - Much of this should be removed from the rule and returned to the application.

3701-17-03.1

Nothing substantial

3701-17-03.2

- Removed from this draft.
 - It was the fee for a change of operator license application

3701-17-04

- Nothing substantial

3701-17-05

- Added “related to staff member” with regard to “transient guest.”

3701-17-06

Added the following to the EIDC reporting system for immediate reporting in addition to abuse, neglect, or misappropriation:

- (b) Elopement of a resident as defined in paragraph (J) of rule 3701-17-01 of the Administrative Code;
- (c) Instances when 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
- (e) Inadequate food, medical, durable medical equipment, incontinence, respiratory or pharmaceutical supplies at the nursing home.

3701-17-06 Cont.

Added:

- 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.

3701-17-06 Cont.

Added to QAPI:

(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) After QAPI meetings or discussions, make the resident council president or their designee aware of necessary items directly concerning them when applicable.

(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.

- Also added “conduct a root cause analysis” to the active portion.

3701-17-07, .1, .2, & .3

- **Added:**

- “real, alleged, or suspected” abuse, neglect, or exploitation of a resident, or misappropriation of the property of a resident.
- The individual has successfully completed a prelicensure program of nursing education approved by the board of nursing under section 4723.06 of the Revised Code or by an agency of another state that regulates nursing education and has passed the examination accepted by the board of nursing under section 4723.10 of the Revised Code, which will be deemed as the successful completion of a competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code.

3701-17-08

- Under 100 beds remains the same.
- For nursing homes with a one hundred or more bed licensed 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. 30 hours if just the SNF
 - 32 hours if doing an SNF/RCF co-located and owned/operated by the same entity.
- The administrator will designate another staff member to have responsibility of the nursing home when absent from the nursing home due to illness, vacation or an emergency situation.

Removed from first draft: ~~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.~~

- (5) A designated infection prevention and control coordinator in accordance with paragraph (A) of rule 3701-17-11 of the Administrative Code.

3701-17-09

- Mail delivered unscreened.
- (3) Each resident has access to telephone or a device (originally said computer) for video conferencing services that meet the needs of the resident in an area where calls can be made in a manner which ensures privacy;
- (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 appropriate visitation in the event of a facility emergency or a public health emergency.

3701-17-10

Added these to admission assessments:

- (4) Ability to conduct the activities of daily living
- (5) Head to toe skin status assessment;
- (6) Risk for elopement; and
- (7) Preferences related to discharge timeline.

Also added a requirement to “develop a baseline care plan”

Added these to the comprehensive and quarterly assessments:

- Head to toe skin status assessment;
- Ability to conduct activities of daily living;
- Risk of elopement.

3701-17-10 Cont.

- (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.

3701-17-11

Infection Control:

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 the home's infection prevention and control policies and procedures, to investigate, control and prevent infections in the home, and to institute appropriate interventions. The nursing 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 part-time infection control duties in the nursing home each week, and participates in the nursing home's quality control and performance improvement (QAPI) committee. The infection prevention and control coordinator will:

3701-17-11 Continued

Infection Control:

- (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.

3701-17-11 Continued

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

3701-17-11 Continued

Infection Control:

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

3701-17-11 Continued

Infection Control:

- (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; 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.

3701-17-11 Continued

- 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.

Water Management:

- 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.

3701-17-11 Continued

Adult Day:

- 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 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.

3701-17-12

Missing from the posted rules: (References (E) in rule 3701-17-14)

- (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

3701-17-13

Added for Medical Director:

- The medical director will ensure medical standards are adhered to during facility emergencies, voluntary closures, and decertification or licensure actions and this can be performed either in-person or on-call.
- Maintain surveillance of the health and wellbeing of the nursing home's staff to avoid the spread of infectious diseases.
- Review all deficiency statements issued to the nursing home concerning the medical director.

3701-17-14

Reiterated that elopements must be reported, but reference non existing paragraph E of 3701-17-12

Added:

The nursing home will begin discharge planning for any resident for whom the initial and subsequent assessment indicated an interest in discharge.

3701-17-15

Nothing Substantial

3701-17-16

Added:

- Beds must be suitable for the size of the resident.
- 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 upon request;
- For resident privacy in rooms - 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 call system - 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

3701-17-17

Added:

- Medications and drugs are [provided in a manner to ensure the privacy of the resident.](#)
- 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.
- 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.

3701-17-18

Nothing substantial

3701-17-19

Added

- 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.

3701-17-20

Smoking:

- Clarified that electronic smoking devices and a vapor product are to be considered the same as smoking.
- Nursing homes that allow outdoor resident smoking **will** make accommodations for residents during adverse weather conditions, **public health emergencies, incidents of isolation, or quarantine.**

3701-17-21

- In every building or addition to a building constructed or converted to use as a nursing home on or after [the effective date of this rule](#), [each resident room will have 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. [Toilet rooms are not to be shared between rooms.](#)

3701-17-22

- Extermination of pests should be considered urgent and remediation is obligated to commence as soon as possible

3701-17-23

Nothing Substantial

3701-17-24

Temperature

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

3701-17-25

Added to written disaster preparedness plan:

- 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.
- ~~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;~~
- Policies and procedures to ensure infection prevention and control in the event of an emergency or disaster requiring evacuation or other movement of residents.

Carbon Monoxide:

- Removed most of the language and just put the following:
- If applicable, each nursing home will install and maintain carbon monoxide alarms or detectors in accordance with ~~section 915.~~ of the Ohio Fire Code.

Each nursing home will notify the director by phone or electronic mail when there is an interruption affecting the resident health and safety due to an emergency or a disaster involving the nursing home.

3701-17-26

- A variance or waiver approved by the director does not serve as precedent for other variance or waiver requests.

What questions do you have?

