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) "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.
(2) "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

(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.

(3) "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.

(4) "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.

(5) 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.

(B) No long-term care facility shall 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 by the director under division (C) of section 3721.31 of the Revised Code, and 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 approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code or has satisfied the requirements of paragraph (B)(2)(a) and (B)(2)(b) of this rule and, in either case, also has completed successfully the competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative Code. An individual shall be considered to have satisfied the requirement of having successfully completed a training and competency evaluation program approved by the director 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

(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 inservice nurse aide education shall 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 by the director under division (C) of section 3721.31 of the Revised Code and former rule 3701-18-07 of the Administrative Code in effect at the time of the determination and was otherwise comparable to the training and competency evaluation programs being approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code;

(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 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
conducted by the director under division (C) of section 3721.31 of the Revised Code and
the applicable rules of Chapter 3701-18 of the Administrative Code; 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 conducted by the director under division (C) of
section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the
Administrative Code. Before allowing an individual to serve as a nurse aide for more
than four months in accordance with this paragraph, a facility shall 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 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 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 require the individual to participate in one of the
following:

(1) If the individual has successfully completed a training and competency evaluation
program approved by the director under division (A) of section 3721.31 of the Revised
Code and Chapter 3701-18 of the Administrative Code, 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
conducted by the director; or

(3) A training and competency evaluation program approved by the director under
division (A) of section 3721.31 of the Revised Code and, in addition, the competency
evaluation program conducted by the director under division (D) of section 3721.31 of
the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative
Code.

(D) No long-term care facility shall continue for longer than four months to use as a
nurse aide 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 approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code;

(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 conducted by the director under division (D) of section 3721.31 of the Revised Code and the applicable rules under Chapter 3701-18 of the Administrative Code.

(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 require the individual to participate in one of the following:

(1) If the individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code, 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 conducted by the director; or

(3) A training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code and, in addition, the competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative Code.

(F) For the purposes of paragraphs (C) and (E) of this rule, an individual shall 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 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 not 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 must
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 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 impose on a nurse aide any charge for participation
in any competency evaluation program or training and competency evaluation program
approved by the director under division (A) of section 3721.31 of the Revised Code and
Chapter 3701-18 of the Administrative Code or conducted by the director under
division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter
3701-18 of the Administrative Code, including any charge for textbooks, other required
course materials or a competency evaluation.

(J) No long-term care facility shall require 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 approved or
conducted by the director.

(K) In addition to competency evaluation programs and training and competency
evaluation programs required by this rule, each long-term care facility shall 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, a description
of its resident population, and an enumeration of its employee rules. The orientation
program shall 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 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 be conducted at least ninety days after the nurse aide completes successfully the competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code and the applicable rules of Chapter 3701-18 of the Administrative Code or commences work in the facility and annually thereafter. The performance review shall consist, at minimum, of an evaluation of the nurse aide’s working knowledge and clinical performance and shall be conducted by the aide’s immediate supervisor or a nurse designated by the facility to conduct the performance evaluations. The facility shall 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, and mental health care units.

(a) Formal in-service education shall include an instructional presentation and may include skills demonstration with return demonstration and inservice 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 special needs of residents as determined by the facility staff. 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 special needs of the residents in the unit.

(c) The facility shall assure that each nurse aide receives at least twelve hours of formal in-service education each year and that each nurse aide who works in a specialty unit receives sufficient additional hours of training each year to meet the special needs of the residents of that specialty unit. In-service education may be obtained through web-based training programs. For purposes of this paragraph, the year within which a nurse aide must receive continuing education is calculated based on the commencement of employment.

(d) The facility shall maintain a written record of each formal in-service session which
shall include 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.

3701-17-07.3 NURSE AIDE REGISTRY.

(A) The director shall maintain a nurse aide registry listing all individuals who have met the competency requirements of division (A) of section 3721.32 of the Revised Code. The registry also shall include both of the following:

(1) The statement required 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 may 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 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 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 in paragraph (C)(1) of this rule shall 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 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 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 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 provide further proof that he or she
received compensation for the specified services.

(E) No long-term care facility shall continue for longer than four months to use as a nurse
aide an individual who previously met the requirements 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.