3701-17-08 Personnel requirements.

...(B) Each nursing home shall employ a registered nurse who shall serve as director of nursing. The director of nursing shall 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. In the event the director of nursing is absent from the nursing home due to illness, vacation or an emergency situation, the home shall designate another registered nurse in its employ to serve as acting director of nursing. The director of nursing shall not be counted toward meeting the other nurse staffing requirements of this rule unless the home’s licensed capacity is no greater than sixty beds.

...(D) The director may grant a variance from the registered nurse requirement of paragraph (C)(2) of this rule, if the director determines that the strict application of the requirement would cause an undue hardship to the home and that granting of the variance will not defeat the spirit and general intent of this rule, adversely affect the health or safety of the residents, or otherwise not be in the public interest. A home seeking a variance under this paragraph, shall submit a request, in writing, to the director that demonstrates to the satisfaction of the director that:

1. The home has made, and is continuing to make, diligent effort to recruit the required registered nurses personnel through advertising and the use of other techniques available in the area of the state in which the home is located, such as the use of public or private employment agencies;

2. The home is offering the prevailing wage for registered nurses in the area of the state in which the home is located;

3. That the facilities and personnel policies of the home are such as to offer satisfactory working conditions for prospective employees; and

4. That the registered nurse requirement is an undue hardship for the home to meet and that the variance will not jeopardize the health and safety of the residents. In accordance with paragraph (D) of rule 3701-17-26 of the Administrative Code, the director shall notify the operator of the director’s determination concerning the request for this variance and provide the operator with an opportunity for an informal review. The director shall also provide notice to the state long term care ombudsman and the protection and advocacy system in the state for the mentally ill and mentally retarded of a variance granted under this paragraph. The director may establish conditions that the nursing home shall meet for the variance to be operative and shall not grant the variance for a period to exceed one year.
...(G) The nursing home shall 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.