

3701-17-50 **Definitions.**

As used in rules 3701-17-50 to 3701-17-68 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 walking and moving, bathing, grooming, toileting, oral hygiene, hair care, dressing, eating, and nail care.
- (C) "Administrator" means the person responsible for the daily operation of the residential care facility. The administrator and the operator may be the same person.
- (D) "Bedroom" means a room used by a resident or residents for sleeping purposes that is either a resident unit or a portion of a resident unit.
- (E) "Call signal system" means a set of devices that are connected electrically, electronically, by radio frequency transmission, or in a like manner, are resident activated, and effectively can alert the staff member or members on duty of emergencies or resident needs.
- (F) "Complex therapeutic diets" means calculated nutritive regimens including, but not limited to:
 - (1) Diabetic and other nutritive regimens requiring a daily specific kilocalorie level;
 - (2) Renal nutritive regimens;
 - (3) Dysphagia nutritive regimens excluding simple textural modifications; and
 - (4) Any other nutritive regimens requiring a daily maximum or minimum level of one or more specific nutrients, or a specific distribution of one or more nutrients.
- (G) "County home" and "district home" mean an entity operated under Chapter 5155. of the Revised Code.
- (H) "Department" means the department of health.
- (I) "Developmental delay" means that a child has not reached developmental milestones expected for his or her chronological age as measured by qualified professionals using appropriate diagnostic instruments and/or procedures.
 - (1) Delay shall be demonstrated in one or more of the following developmental areas: adaptive behavior, physical developmental or maturation (fine and gross motor skills; growth) cognition; social or emotional development; and sensory development; or
 - (2) An established risk involving early aberrant development related to diagnosed medical disorders, such as infants and toddlers who are on a ventilator, are

adversely affected by drug exposure, or have a diagnosed medical disorder or physical or mental condition known to result in developmental delay such as Down syndrome.

(J) "Developmental diagnosis" means a severe, chronic disability that is characterized by the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk.

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(K) "Director" means the director of health or any division, bureau, agency, official or employee of the department to which the director has delegated his authority or duties.

(L) "Dietitian" means an individual licensed under Chapter 4759. of the Revised Code to practice dietetics.

(M)

(1) "Home" means both of the following:

(a) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and the Ohio veterans' home;

- (b) A county home or district home that is or has been licensed as a residential care facility.
- (2) "Home" also means any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended (1981), and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or under division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989.
- (3) "Home" does not mean any of the following:
- (a) Except as provided in division (A)(1)(b) of section 3721.01 of the Revised Code, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;
 - (b) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;
 - (c) A residential facility as defined in section 5123.19 of the Revised Code;
 - (d) A community alternative home as defined in section 3724.01 of the Revised Code;
 - (e) An adult care facility as defined in section 3722.01 of the Revised Code;
 - (f) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;
 - (g) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;
 - (h) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;
 - (i) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;
 - (j) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;
 - (k) A county home or district home that has never been licensed as a residential care facility.

- (N) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment. The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.
- (O) "Home health agency" means an agency certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981).
- (P) "Licensed practical nurse" and "LPN" means a person licensed under Chapter 4723. of the Revised Code to practice nursing as a licensed practical nurse.
- (Q) "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 and open spaces belonging to the same.
- (R) "Maximum licensed capacity" means the authorized type and number of residents in a home as determined in paragraph (O) of rule 3701-17-52 of the Administrative Code.
- (S) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.
- (T) "Nonambulatory" means not able to walk or not physically able to leave the premises without assistance from another individual.
- (U) "Nurse" means a registered nurse or licensed practical nurse.
- (V) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.
- (W) "Ohio building code" means the building requirements, as adopted by the board of building standards pursuant to section 3781.10 of the Revised Code.
- (X) "On call" means the person can be contacted at all times and is immediately available to go on duty in the home upon short notice.
- (Y) "On duty" means being in the home, awake, and immediately available.
- (Z) "Operator" means the person, firm, partnership, association, or corporation which is required by section 3721.05 of the Revised Code to obtain a license in order to open, maintain or operate a home and the superintendent or administrator of a county home or district home licensed or seeking to be licensed as a residential care facility.

(AA) "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 rule 3701-17-59 of the Administrative Code;
- (3) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rule 3701-17-60 of the Administrative Code.

"Personal care services" does not include "skilled nursing care". A facility need not provide more than one of the services listed in this paragraph to be considered to be providing personal care services.

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

(CC) "Registered nurse" and "RN" means an individual licensed to practice nursing as a registered nurse under Chapter 4723. of the Revised Code.

(DD) "Resident" means an unrelated individual to whom a residential care facility provides accommodations.

(EE) "Resident unit" means the private room or rooms occupied by a resident or residents.

(FF) "Residents' rights" means the rights enumerated in sections 3721.10 to 3721.17 of the Revised Code.

(GG) "Residential care facility" means a home that provides either of the following:

- (1) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;
- (2) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(HH) "Serious mental illness" means an illness classified in the "Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised (DSM-III-R)," that meets at least two of the three following criteria of diagnosis, duration and disability:

- (1) Diagnosis: The current primary diagnosis is:
 - (a) Delusional disorders (DSM-III-R 297.10);
 - (b) Dissociative disorders (DSM-III-R 300.14);

- (c) Eating disorders (DSM-III-R 307.10, 307.51, 307.52);
 - (d) Mood disorders (DSM-III-R 296.3x, 296.4x, 296.5x, 296.6x, 296.70, 300.40, 301.13, 311.00);
 - (e) Organic mental disorders (DSM-III-R 290.0, 290.10, 290.1x, 290.4x, 294.10, 294.80);
 - (f) Personality disorders (DSM-III-R 301.00, 301.20, 301.22, 301.40, 301.50, 301.60, 301.70, 301.81, 301.82, 301.83, 301.84, 301.90);
 - (g) Psychotic disorders (DSM-III-R 295.40, 295.40, 295.70, 298.90);
 - (h) Schizophrenia (DSM-III-R 295.1x, 295.2x, 295.3x, 295.6x, 295.9x);
 - (i) Somatoform disorder (DSM-III-R 307.80);
 - (j) Other disorders (DSM-III-R 313.23, 313.81, 313.82); or
 - (k) Other specified.
- (2) Duration: the length of the problem can be assessed by either inpatient or outpatient use of service history, reported length of time of impairment, or some combination, including at least two prior hospitalizations of more than twenty-one days or any number of hospitalizations (more than one) totaling at least forty-two days prior to the assessment, or ninety to three hundred sixty-five days in a hospital or nursing home within three prior years, or major functional impairment lasting more than two years, resulting in utilization of outpatient mental health services on an intermittent basis, a continuous basis, or both.
- (3) Disability/functional impairment: severity of disability can be established by disruption in two or more life activities, including but not limited to:
- (a) Employment;
 - (b) Contributing substantially to one's own financial support (not to be entitlements);
 - (c) Independent residence;
 - (d) Self-care;
 - (e) Perception and cognition;
 - (f) Stress management or coping skills; or
 - (g) Interpersonal and social relations.
- (II) "Skilled nursing care" means procedures that require 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;
 - (2) Objective observation of changes in the resident's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;
 - (3) Special procedures contributing to rehabilitation;
 - (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;
 - (5) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.
- (JJ) "Special diets" means a diet that has been ordered for a resident by a physician, based upon the individual needs of that resident and adjusted to the needs of that resident. A special diet may include the following:
- (1) Texture modifications, including chopped, ground and pureed;
 - (2) Nutrient adjusted, including high protein, no added salt, and no concentrated sweets;
 - (3) Volume adjusted, including small, medium and large portions;
 - (4) Physical needs, including the use of finger foods or bite-sized pieces; or
 - (5) Complex therapeutic diets.
- (KK) "Staff member" or "staff" means an individual working in a residential care facility including the owner; the administrator; a full-time, part-time or temporary paid employee; or an individual working on contract for the facility.
- (LL) "Supervision" means:
- (1) Watching over a resident, when necessary, while the resident engages in activities of daily living or other activities to ensure the resident's health, safety, and welfare;
 - (2) Reminding a resident to do or complete such an activity, as by reminding him or her to engage in personal hygiene or other self-care activity; or
 - (3) Helping a resident to schedule or keep an appointment, or both, including the arranging for transportation.

"Supervision" does not include reminding a resident to take medication and watching the resident to ensure that the resident follows the directions on the container or supervision of special diets as described in paragraph (J) of rule 3701-17-60 of the Administrative Code.

(MM) "Supervision of complex therapeutic diets" means services, including, but not limited to, the following:

- (1) Monitoring a resident's access to appropriate foods as required by a complex therapeutic diet;
- (2) Monitoring a resident's weight and acceptance of a complex therapeutic diet;
- (3) Providing assistance to residents on complex therapeutic diets as needed or requested: and
- (4) Providing or preparing complex therapeutic diets.

(NN) "Unrelated individual" means one who is not related to the owner or operator of the residential care facility or to his or her spouse as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

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General provisions and prohibitions.

- (A) Nothing contained in rules 3701-17-50 to 3701-17-68 of the Administrative Code shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.
- (B) For the purposes of rules 3701-17-50 to 3701-17-68 of the Administrative Code:
- (1) Any residence, institution, hotel, assisted living facility, congregate housing project, or similar facility that meets the definition of a residential care facility or a home for the aging under section 3721.01 of the Revised Code is such a home regardless of how the facility holds itself out to the public;
 - (2) Any residence, institution, hotel, assisted living facility, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides for any number of residents, only housing, housekeeping, laundry, meals, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care is not a home required to be licensed under Chapter 3721. of the Revised Code or rules 3701-17-50 to 3701-17-68 of the Administrative Code; and
 - (3) Personal care services or skilled nursing care shall be considered to be provided by a residential care facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor his sponsor is a party.
- (C) Nothing in paragraph (AA) of rule 3701-17-50 of the Administrative Code shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance. Nothing in paragraph (II) of rule 3701-17-50 of the Administrative Code shall be construed to permit skilled nursing care to be imposed upon an individual who does not require skilled nursing care.
- (D) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility is licensed to provide skilled nursing care to its residents as follows:
- (1) Supervision of special diets;
 - (2) Application of dressings pursuant to division (A)(2) of section 3721.011 of the Revised Code and paragraph (J) of rule 3701-17-59 of the Administrative Code;
 - (3) Subject to division (B)(1) of section 3721.011 of the Revised Code, administration of medication;

- (4) Subject to division (C) of section 3721.011 of the Revised Code, other skilled nursing care provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period;
 - (5) Subject to division (D) of section 3721.011 of the Revised Code, skilled nursing care provided for more than one hundred twenty days in any twelve-month period to a hospice patient, as defined in section 3712.01 of the Revised Code.
- (E) A residential care facility may not admit or retain individuals requiring skilled nursing care or provide skilled nursing care beyond the limits established under section 3721.011 of the Revised Code and rule 3701-17-59.1 of the Administrative Code.
 - (F) Each residential care facility shall provide services as outlined in the resident agreement in accordance with acceptable practices and the facility's policies and procedures.
 - (G) Each residential care facility shall develop and follow policies and procedures to implement the provisions of paragraph (D) of rule 3701-17-52 of the Administrative Code, if applicable.
 - (H) Each residential care facility shall comply with all the residents' rights provisions under Chapter 3721. of the Revised Code.
 - (I) Each residential care facility shall submit an annual report to the department on a form prescribed by the director.
 - (J) An operator shall notify the director in writing of any changes in the information contained in the statement of ownership made pursuant to paragraph (B)(3) of rule 3701-17-52 of the Administrative Code. The operator shall provide this notification no later than ten days after the change occurs.
 - (K) An operator shall give the director written notification of a closing at least thirty days prior to a planned closing date and within twenty four hours of an unplanned closing. The operator shall also provide such written notification of a closing at least thirty days prior to a planned closing date and within twenty-four hours of an unplanned closing to its residents and their sponsors or legal representatives and the regional long-term care ombudsperson program serving the area where the home is located.
 - (L) A residential care facility shall not use the word "hospital" in its name, letterhead or advertising.
 - (M) A residential care facility shall not admit residents in excess of the maximum licensed bed capacity.
 - (N) Notwithstanding section 3721.011 of the Revised Code, a residential care facility in which residents receive skilled nursing care as described in section 3721.011 of the Revised Code is not a nursing home.
 - (O) An applicant for a license to operate a residential care facility shall not accept more than two residents who need personal care services, medication

administration, supervision of special diets, application of dressings or skilled nursing care before receiving a license.

- (P) Any person, county home, or district home 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.
- (Q) In addition to the above provisions, no person, firm, partnership, association, or corporation shall:
- (1) Operate a residential care facility as defined in section 3721.01 of the Revised Code and paragraph (GG) of rule 3701-17-50 of the Administrative Code without obtaining a license from the director;
 - (2) Violate any of the conditions or requirements necessary for licensing after the license has been issued;
 - (3) Operate a residential care facility after the license for such has been revoked by the director;
 - (4) Interfere with the inspection of a licensed residential care facility by any state or local official when he or she is performing duties required of him or her by Chapter 3721. of the Revised Code. All licensed residential care facilities shall be open for inspection.
 - (5) Violate any applicable provision of Chapter 3721. of the Revised Code or rules 3701-17-50 to 3701-17-68 of the Administrative Code.
- (R) No county home or district home licensed under section 3721.07 of the Revised Code shall do any of the following:
- (1) Violate any of the conditions or requirements necessary for licensing after the licensed has been issued;
 - (2) Continue operation after its license has been revoked by the director of health;
 - (3) Fail to be open for an inspection, or interfere with an inspection, by a state or local official performing inspection duties under Chapter 3721. of the Revised Code.
 - (4) Violate any of the provisions of this chapter or any rules adopted thereunder.
- (S) Nothing contained in rules 3701-17-50 to 3701-17-68 of the Administrative Code shall be construed to permit any individual to engage in the practice of nursing as a registered nurse or the practice of nursing as a licensed practical nurse if the individual does not hold a valid license issued under Chapter 4723. of the Revised Code.

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3701-17-52 **Residential care facility licensure application and renewal procedures; revocation.**

- (A) Every applicant for a license to operate a residential care facility shall truthfully and fully complete and submit an application to the director not less than sixty days before the proposed opening of the facility. Such application shall be made on a form prescribed and furnished by the director.
- (B) The initial application for a license to operate a residential care facility shall be accompanied by:
 - (1) A statement by the applicable zoning authority of the status of the proposed residential care facility under any applicable zoning ordinances or rules or a statement by the applicant that there is no zoning authority where the proposed residential care facility is to be located;
 - (2) A statement of financial solvency at the time of the initial application and updated as requested by the director, on a form prescribed and furnished by the director, showing that the applicant has the financial ability to staff, equip, and operate the residential care facility in accordance with Chapter 3721. of the Revised Code, and rules 3701-17-50 to 3701-17-68 of the Administrative Code, and that the applicant has sufficient capital or financial reserve to cover not less than three months' operation;
 - (3) A statement of ownership containing the following information:
 - (a) If the operator is an individual or superintendent or administrator of a county home or district home, the individual's name, address, and telephone number. If the operator is 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; and
 - (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 residential care facility is housed, the name of each person who has an ownership interest of five per cent or more in the buildings.
 - (c) The name and address of any residential care facility and any facility described in paragraphs (M)(1) and (M)(3) of rule 3701-17-50 of the Administrative 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;
 - (d) The name, business address and telephone number of the administrator of the residential care facility, if different from the operator; and
 - (e) The name, business address and telephone number of any management firm or business employed to manage the residential care facility.

- (4) Copies of the certificate of occupancy required by paragraph (A) of rule 3701-17-63 of the Administrative Code and the heating inspection report required by paragraph (A) of rule 3701-17-65 of the Administrative Code.
- (C) For purposes of this rule, a facility, or part thereof, is considered to "hold itself out" as serving a special population if it:
- (1) Advertises, in any medium, care for individuals with any of the following:
 - (a) Late-stage cognitive impairment with significant ongoing daily living assistance needs;
 - (b) Cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both; or
 - (c) Serious mental illness.
 - (2) Represents to the department or the public, that the facility, or part thereof, provides care for individuals with any of the following:
 - (a) Late-stage cognitive impairment with significant ongoing daily living assistance needs;
 - (b) Cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both; or
 - (c) Serious mental illness.
 - (3) Admits ten or more individuals or twenty percent of the facility's census, whichever is greater, with any of the following:
 - (a) Late-stage cognitive impairment with significant ongoing daily living assistance needs;
 - (b) Cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both; or
 - (c) Serious mental illness.
- (D) The operator of a residential care facility, or part thereof, that holds itself out as serving a special population, shall submit to the department a written description of the special care provided to such residents on a form prescribed and furnished by the director. The description shall include:
- (1) A statement of mission or philosophy that reflects the needs of the special population;
 - (2) Admission criteria to the residential care facility, or part thereof, including screening criteria;

- (3) Transfer and discharge criteria and procedures;
 - (4) A weekly staffing plan for the facility or part thereof. If for a part of a facility, the staffing plan shall;
 - (a) State how it differs from the staffing plan for the remainder of the facility; and
 - (b) Detail the necessary increase in supervision, due to decreased safety awareness or other assessed condition, of residents with cognitive impairments in the secured unit.
 - (5) A description of activities offered, including frequency and type, and how the activities meet the needs of the type of residents in that special care unit. If for a part of a facility, the description shall include how these activities differ from those offered in the remainder of the facility;
 - (6) A listing of the costs of the services provided by the facility to the resident;
 - (7) Specialized staff training and continuing education practices;
 - (8) The process used for assessment and the provision of services, including the method for altering services based on changes in condition;
 - (9) If necessary, how the facility addresses the behavioral healthcare needs of residents;
 - (10) The physical environment and design features to support the functioning of residents in the facility or part thereof;
 - (11) The involvement of families and the availability of family support programs for residents in the facility or part thereof;
 - (12) Any services or other procedures that are over and above those provided in the remainder of the facility, if part of a facility; and
 - (13) Any other information the director may require.
- (E) The operator of a residential care facility shall pay a nonrefundable application fee at the time the operator makes initial application for a license and an annual renewal application and licensing fee required by section 3721.02 of the Revised Code. Payment shall be in the form of a check or money order payable to the "Treasurer, State of Ohio." The annual renewal fee shall be paid during the month of January of each calendar year. Any residential care facility 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 the 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 facility's license.
- (F) The director may request any additional information 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-

17-50 to 3701-17-68 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.

- (G) The director shall issue a license to operate a residential care facility if, after completion of the inspection required by paragraph (A) of rule 3701-17-53 of the Administrative Code and review of the license application, the director determines that the facility meets the requirements of section 3721.07 of the Revised Code. The license shall remain in effect until revoked by the director or voided at the request of the applicant if the annual renewal fee is paid during the month of January of each year.
- (H) The director may issue an order denying or 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, county home, or district home licensed under section 3721.07 of the Revised Code:
 - (1) Has violated any of the provisions of Chapter 3721. of the Revised Code or of rules 3701-17-50 to 3701-17-68 of the Administrative Code;
 - (2) Has violated any order issued by the director;
 - (3) Is not, or any of its principals are not suitable, morally or financially, to operate such an institution;
 - (4) Is not furnishing humane, kind, and adequate treatment and care; or
 - (5) Has had a long-standing pattern of violations of Chapter 3721. of the Revised Code or of rules 3701-17-50 to 3701-17-68 of the Administrative Code that has caused physical, emotional, mental, or psychosocial harm to one or more residents.
- (I) Upon the issuance of any order of revocation, the person whose license is revoked, or county home or district home that has its license revoked, may appeal in accordance with Chapter 119. of the Revised Code.
- (J) Once the director notifies a person, county home, or district home 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, county home, or district home 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, county home, or district home that the prohibition has been lifted.
 - (1) If a license is revoked under this 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) On revocation of a license, the former license holder shall take all necessary steps to cease operation of the home.

- (K) A license to operate a residential care facility is valid only for the premises named in the application. If ownership of a facility 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.
- (L) An operator who operates one or more residential care facilities 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 residential care facility, such facility may be operated under a single license. On or after the effective date of this rule, an operator who operates one or more residential care facilities in more than one building, where the buildings are intersected by a public roadway, shall not be granted a license to operate the buildings as a single residential care facility, unless before the effective date of this rule the buildings were so licensed.
- (M) The operator shall post the license in a conspicuous place in the residential care facility.
- (N) In determining the number of residents in a residential care facility for the purpose of licensing, the director shall consider all the individuals for whom the facility provides accommodations as one group unless one of the following is the case:
- (1) The facility is seeking licensure as a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group and all the individuals in the part or unit licensed as a residential care facility shall be considered as another group;
 - (2) The facility maintains, in addition to a residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the residential care facility, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the residential care facility if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the facility 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 of section 3721.02 of the Revised Code and this paragraph.
 - (3) The facility provides an adult day care program on the same site as the facility that is separate and distinct from the facility except as otherwise permitted in rules 3701-17-50 to 3701-17-68 of the Administrative Code, in which case the participants of the adult day care program shall not be considered in determining the number of residents in the facility.
- (O) The director shall determine the type and number of residents a residential care facility can accommodate which shall be the authorized maximum licensed capacity of the facility. Such determination shall be made on the basis of the physical facilities, personnel of the facility and the services and care needed by

the residents to be admitted or retained in the residential care facility, and the permitted occupancy approved by the department of commerce. No operator, administrator, staff member or any other person shall set up beds for resident use in a residential care facility which exceed the authorized maximum licensed capacity. If the residential care facility alters its physical facilities in a manner that affects bed capacity or proposes to move existing beds, the facility shall notify the director, in writing, at least sixty days prior to the date the facility wants to commence filling the new beds or moving existing beds. The residential care facility shall not commence filling the new beds or moving the existing beds until the director notifies the facility, in writing, that the alteration or move complies with the applicable provisions of Chapter 3721. of the Revised Code and rules 3701-17-50 to 3701-17-68 of the Administrative Code.

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- (A) The director shall inspect each residential care facility at least once prior to the issuance of a license, at least once every fifteen months and as the director considers necessary. The inspections may be announced or unannounced except that one unannounced inspection shall be conducted at least every fifteen months. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the fire marshal shall also inspect a residential care facility prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A residential care facility does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the facility is assigned or transferred to a different person and the facility was licensed under Chapter 3721. of the Revised Code as a residential care facility immediately prior to the assignment or transfer.
- (B) The director may investigate any complaint concerning a facility in accordance with sections 3721.031 and 3721.17 of the Revised Code.
- (C) An operator, administrator, staff member or any other person shall not:
- (1) Refuse to permit the director for the purpose of inspecting or investigating the operation of a residential care facility, to enter and inspect at any time a building or premise where a residential care facility is located, or to enter and inspect records, including resident medical records, which are kept concerning the operation of the residential care facility for information pertinent to the legitimate interest of the department.
 - (2) Use profane or abusive language directed at or in the presence of residents or the director.
- (D) When inspecting or investigating a residential care facility, the director shall respect the residents' privacy and dignity, cooperate with the residents, behave in a congenial manner toward the residents, protect the residents' rights, and behave in a cooperative and professional manner toward individuals working in the facility. The director or the director's designee shall:
- (1) Refrain from using language or behavior that is derogatory, insulting, intimidating, or threatening;
 - (2) Not harass or coerce residents or otherwise attempt to influence residents' responses to inquiries;
 - (3) Not make remarks or comparison, positive or negative, about another residential care facility or other residents;
 - (4) Not solicit, accept, or agree to accept from the residential care facility or a resident of the facility compensation, gratuities, gifts, or any other thing of value that is of such character as to manifest a substantial and improper influence upon the director or the director's designee with respect to their duties;

- (5) Obtain the resident's consent prior to conducting an evaluation of a resident unless a court has issued a search warrant or other order authorizing such an evaluation. When requesting the resident's consent to evaluate the resident, the director or the director's designee shall explain that:
- (a) The resident has the option to consent or not to consent to the evaluation;
 - (b) The resident will not be evaluated without the resident's consent;
 - (c) The resident may have another individual of the resident's choice present during the evaluation. If a resident requests that another individual be present during the evaluation and that individual is not available, the resident has not consented to the evaluation; and
 - (d) The resident will not suffer any adverse consequences if the resident refuses to consent.
- (E) The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the director or that the director has reasonable cause to believe is operating as a residential care facility without a valid license or in the case of a county or district home, is operating despite the revocation of its residential care facility license.
- (F) If an inspection reveals a violation or violations of Chapter 3721. of the Revised Code or of rules 3701-17-50 to 3701-17-68 of the Administrative Code, the director may provide the facility with the opportunity to correct the violation or violations.

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Personnel requirements.

(A) Each residential care facility shall arrange for the services of an administrator who shall:

- (1) Meet the applicable requirements of rule 3701-17-55 of the Administrative Code;
- (2) Be responsible for the daily operation of the residential care facility including, but not limited to, assuring that residents' ongoing or changing service needs, as identified in the resident assessments, and services ordered by a licensed health care professional are acted upon by the appropriate staff member. If the facility does not provide for the needed service, it shall be discussed with the resident as required by paragraph (H) of rule 3701-17-58 of the Administrative Code;
- (3) Provide not less than twenty hours of service in the facility during each calendar week during the hours of eight a.m. and six p.m. If the administrator is unable to provide at least twenty hours of service in the residential care facility in a given calendar week because of a vacation, illness, or other temporary situation, the administrator shall designate a staff member, who shall not be less than twenty-one years of age and who meets the requirements of paragraphs (D) and (K) of rule 3701-17-55 of the Administrative Code, to serve as acting administrator;

The administrator or acting administrator shall be accessible at all other times when not present at the residential care facility. A residential care facility located in the same building as a nursing home, or on the same lot as a nursing home, both of which are owned and operated by the same entity, shall be considered to have met this requirement if the nursing home has a full-time administrator licensed under Chapter 4751. of the Revised Code who is responsible for both the residential care facility and nursing home. For the purposes of this paragraph, "full-time" means no less than thirty-two hours per calendar week.

(B) The residential care facility administrator may provide services to residents if the administrator meets the applicable qualifications of rule 3701-17-55 of the Administrative Code. An administrator, providing personal care services, of a facility with:

- (1) Sixteen or less beds may be counted toward meeting the staffing requirements of paragraph (C)(1) of this rule;
- (2) Seventeen to thirty-five beds shall not be counted toward meeting the staffing requirements of paragraph (C)(1) until he or she has met the requirements of paragraph (A)(3) of this rule;
- (3) More than thirty-five beds shall not be counted toward meeting the staffing requirements of paragraph (C)(1) of this rule.

(C) Each residential care facility shall have the following staff members who are competent to perform the duties they are assigned:

- (1) At least one staff member on duty at all times who shall meet the qualifications of rule 3701-17-55 of the Administrative Code for staff members providing personal care services. During the night, the staff member who is physically present in the facility may be on call if the facility meets the call signal system requirements of paragraph (B)(5) of rule 3701-17-64 of the Administrative Code. When only one staff person is on duty in the facility, the residential care facility shall designate another staff member who meets the same qualifications to be on call; and
- (2) Sufficient additional staff members who meet the applicable qualifications of rule 3701-17-55 of the Administrative Code for the services they perform and appropriate scheduling of sufficient staff time to adequately do all of the following:
 - (a) Meet, in a timely manner, the residents' total care, supervisory and emotional needs as determined by the resident assessment required under rule 3701-17-58 of the Administrative Code and consistent with the resident agreement required under rule 3701-17-57 of the Administrative Code and reasonable and appropriate requests for services, including monitoring in excess of supervision of residents with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both;
 - (b) Properly provide dietary, housekeeping, laundry, and facility maintenance services and recreational activities for the residents in accordance with the rules of this chapter; and
 - (c) Assist, when necessary, with prompt evacuation of nonambulatory residents. The additional staff members needed to implement the facility's evacuation plan required by paragraph (J)(1) of rule 3701-17-63 of the Administrative Code shall be present in the facility at all times.
 - (d) Provide or arrange for resident activities required under rule 3701-17-61 of the Administrative Code.
- (3) Each residential care facility shall have at least one staff member capable of giving personal care services who has successfully completed the first aid training required by paragraph (E) of rule 3701-17-55 of the Administrative Code, if applicable, present in the facility at all times.
- (4) In determining the staffing level for the facility, the facility is not required to consider resident needs:
 - (a) That are being served through a contractual arrangement between the resident and a third party provider;
 - (b) That the resident chooses not to have met as documented in the resident's record; or
 - (c) That the resident has not contracted with the facility to meet if the facility has complied with paragraph (H) of rule 3701-17-58 of the Administrative Code.
- (5) Unless the resident's needs are being met by a private psychologist or physician, each residential care facility that holds itself out as serving a

special population pursuant to paragraph (C) of rule 3701-17-52 of the Ohio Administrative Code shall have a psychologist or physician with experience in the diagnosis and treatment of either cognitive impairments, serious mental illness, or both, either on staff or as a consultant.

- (D) In addition to the requirements set forth in this rule, each residential care facility that elects to admit or retain residents for whom the facility provides skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication shall do all of the following:
- (1) Employ or contract with a registered nurse who shall provide onsite supervision of skilled nursing care provided to residents. For purposes of this rule, "onsite supervision" means that the RN shall spend sufficient time each week in the facility to manage the provision of skilled nursing care in accordance with accepted standards of practice.
 - (2) Have a licensed nurse on call when one is not present in the facility; and
 - (3) Have sufficient additional nursing staff to meet residents' needs.
- (E) The operator or administrator shall establish a schedule for staff coverage that includes coverage during vacations, emergency situations, and long-term absences due to illness. The residential care facility shall not require, coerce or persuade a resident to supervise other residents, provide personal care services, supervise special diets, administer medications or manage the facility. Residents who voluntarily help or receive assistance from one another shall not be counted in determining whether the residential care facility meets the staffing requirements of this rule.
- (F) Each residential care facility which elects to administer medication shall have one of the following individuals on duty who shall administer medications in accordance with paragraphs (G) and (H) of rule 3701-17-59 of the Administrative Code and remain on duty for a sufficient amount of time to observe medication acceptance and reaction:
- (1) A registered nurse;
 - (2) A licensed practical nurse holding proof of successful completion of a course in medication administration approved by the Ohio board of nursing pursuant to Chapter 4723. of the Revised Code who shall administer medication only at the direction of a registered nurse or physician;
 - (3) A physician; or
 - (4) A person authorized by law to administer medication.
- (G) Each residential care facility which elects to supervise special diets shall provide or arrange for a dietitian and comply with the requirements of rule 3701-17-60 of the Administrative Code.
- (H) Each residential care facility which elects to provide for the application of dressings in accordance with division (A)(2) of section 3721.011 of the Revised Code shall have sufficient nursing staff to provide the service and shall comply with the requirements of paragraph (J) of rule 3701-17-59 of the Administrative Code.

- (I) Each residential care facility that elects to provide skilled nursing care using staff members, in accordance with division (C) of section 3721.011 of the Revised Code and paragraph (B)(3) of rule 3701-17-59.1 of the Administrative Code, shall have sufficient nursing staff to provide the skilled nursing care. If the residential care facility elects to provide enteral tube feedings on a part-time intermittent basis the facility shall provide or arrange for a dietitian and provide sufficient nursing staff with appropriate experience and training in enteral tube feedings. Skilled nursing care may be delegated in accordance with Chapter 4723-13 of the Administrative Code.
- (J) A residential care facility that is physically located in the same building or on the same lot as a nursing home, both of which are owned and operated by the same entity, or is part of the same home for the aging licensed under Chapter 3721. of the Revised Code as a residential care facility may use nurses or nurse aides, or both, from the nursing home to meet part or all of the staffing requirements of this rule, if all of the following criteria are met:
- (1) The residential care facility at all times meets the minimal staffing levels required by paragraph (C)(1) of this rule. The staff members, assigned to and responsible for meeting the residential care facility residents' needs, may provide services to nursing home residents if they meet the nurse aide qualifications of rule 3701-17-07.1 of the Administrative Code, but shall not be counted towards meeting the nursing home staffing levels of rule 3701-17-08 of the Administrative Code;
 - (2) The nursing home at all times meets the staffing level requirements of rule 3701-17-08 of the Administrative Code;
 - (3) Separate staffing schedules for the residential care facility and nursing home are maintained; and
 - (4) The residential care facility has the call signal systems required by paragraph (B)(5) of rule 3701-17-64 of the Administrative Code, for residents to use in obtaining unscheduled care or services, as needed, when unexpected care needs arise and the monitoring of call signal systems in the residential care facility and nursing home is not disrupted. The residential care facility shall not limit the use of the call signal systems to emergencies only;
 - (5) Utilization of the nurses or aides, or both, does not adversely affect the quality and timeliness of meeting the care needs of the nursing home and residential care facility residents; and
 - (6) For a residential care facility on the same lot as a nursing home, the homes are located within two minutes or less response time from each other.

No staff member simultaneously assigned to the staffing schedule of the residential care facility and the nursing home shall be counted in determining whether the residential care facility meets the staffing requirements of paragraph (C) of this rule, unless over fifty per cent of the staff member's assigned daily working hours are in the residential care facility.

(K) The operator or the administrator of each residential care facility shall maintain records, on forms provided by the director, documenting compliance with the personnel requirements of this rule.

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Qualifications and health of personnel.

- (A) No person with a disease which may be transmitted in the performance of the person's job responsibilities shall work in a residential care facility during the stage of communicability unless the person is given duties that minimize the likelihood of transmission and follows infection control precautions and procedures.
- (B) No person shall work in a residential care facility who uses alcohol or drugs to the extent that it adversely affects the performance of the person's duties or the health or safety of any resident.
- (C) No person shall work in a residential care facility in any capacity as a full-time, part-time or temporary paid employee of the facility unless the person has been examined by a physician or other health care professional acting within their applicable scope of practice within thirty days before commencing work or on the first day of work. No person shall commence work in a residential care facility in any capacity unless the person is medically capable of performing the person's prescribed duties. A person who provides ten or more hours of service at the facility in any thirty-day period shall meet the tuberculosis testing requirements of this paragraph. Operators shall retain copies of the examinations and tests required by this paragraph and shall furnish them to the director upon request.
 - (1) The required tuberculosis test shall include a single blood assay for M. tuberculosis (BAMT) test, or the two-step Mantoux test for tuberculosis using five tuberculin units of purified protein derivative or, if the individual has a documented history of a significant BAMT test, or Mantoux test, a chest x-ray.
 - (a) The individual shall not have any resident contact until after the results of the BAMT test, or first step of the Mantoux test have been obtained and recorded in millimeters of induration. Only a single Mantoux or BAMT test is required if the individual has documentation of either a single step or two-step Mantoux or BAMT test having been performed within one year of commencing work.
 - (b) The first step of the Mantoux test should be read within forty eight to seventy two hours following application. If the first step in the Mantoux test is nonsignificant, a second step shall be performed at least seven but not more than twenty-one days after the first step was performed.
 - (c) If the tuberculosis testing performed pursuant to paragraphs (C)(1)(a) - and (C)(1)(b) of this rule is nonsignificant, a single Mantoux or BAMT test shall be performed annually within thirty days of the anniversary date of the most recent testing.
 - (d) If the results of the BAMT test or either step of the Mantoux are significant, the individual shall have a chest x-ray and shall not enter the facility until after the results of the chest x-ray have been obtained and the individual is determined not to have active pulmonary tuberculosis. Whenever a chest x-ray is required by paragraph (C) of this rule, a new chest x-ray need not be performed if the individual has

had a chest x-ray no more than thirty days before the date of the significant BAMT or Mantoux test. Additional tuberculosis testing is not required after one medically documented significant test. A subsequent chest x-ray is not required unless the individual develops symptoms consistent with active tuberculosis.

- (e) If the chest x-ray does not indicate active pulmonary tuberculosis, but there is evidence of a significant BAMT or Mantoux test, the facility shall require that the individual be evaluated and considered for preventive therapy. Thereafter, the facility shall require the individual to report promptly any symptoms suggesting tuberculosis. The facility shall maintain a listing of individuals with evidence or a history of conversion and annually document the presence or absence of symptoms in such an individual and maintain this documentation on file; and
 - (f) If the chest x-ray reveals active pulmonary tuberculosis, the residential care facility shall not permit the individual to enter the facility until the appropriate local public health authority determines the individual is no longer infectious.
- (2) The residential care facility may allow volunteers to work in the facility for less than ten days within one thirty day period without being tested for tuberculosis pursuant to paragraph (C)(1) of this rule, if the facility:
- (a) Assesses the volunteer for signs and symptoms of tuberculosis; and
 - (b) Ensures that a volunteer assessed as having signs and symptoms is not permitted to enter the facility until the volunteer meets the requirements of paragraph (C)(1) of this rule.

The residential care facility shall require a volunteer who continues to work in the facility for ten or more days within one thirty day period or for more than ten hours during any subsequent thirty day period to meet the tuberculosis testing requirements of paragraph (C)(1) of this rule.

- (3) Employees of temporary employment services or, to the extent applicable, paid consultants working in a facility shall have medical examinations and tuberculosis tests in accordance with paragraph (C) of this rule, except that a new physical examination and tuberculosis test are not required for each new assignment. Each facility in which such an individual works shall obtain verification of the physical examination and the tuberculosis test result, as applicable, from the employment agency or consultant before the individual begins work and shall maintain this documentation on file.
 - (4) Individuals used by an adult day care program provided by and on the same site as the residential care facility shall have medical examinations and tuberculosis tests in accordance with paragraph (C) of this rule if the adult day care program is located or shares space within the same building as the residential care facility or if there is a sharing of staff between the residential care facility and adult day care program.
- (D) Each residential care facility staff member and volunteer:

- (1) Who provides personal care services shall be at least sixteen years of age. Staff members or volunteers who provide personal care services who are under the age of eighteen shall have on-site supervision by a staff member over the age of eighteen. The administrator shall be at least twenty-one years of age;
 - (2) Who assists residents with self-administration of medications shall demonstrate an ability to read, write and understand information and directions in English. All other staff members and volunteers shall demonstrate an ability to understand and communicate job-related information and directions in English.
 - (3) Who plan activities for residents with impairments specified in paragraph (C) of rule 3701-17-52 of the Administrative Code in a home that holds itself out as serving a special population shall have training in appropriate activities for individuals with cognitive impairments or serious mental illness as appropriate.
- (E) Staff members who provide personal care services in a residential care facility, except licensed health professionals whose scope of practice include the provision of personal care services, shall meet the following training requirements:
- (1) Have first-aid training evidenced by one of the following:
 - (a) Currently valid documentation of successful completion of the "American Red Cross Standard First-Aid Course", the "American Red Cross First-Aid Basics", or any other American Red Cross course covering the topics in paragraph (E)(1)(b) of this rule; or
 - (b) Documentation of successful completion, within the past three years, of first-aid training by a physician or registered nurse, an emergency medical technician, or an instructor certified by the "American Red Cross." This training shall include recognition and emergency management of bleeding, burns, poisoning, respiratory distress including choking, musculoskeletal injury, wounds including animal and insect bites, sudden illness, shock, hypothermia, heat stroke and exhaustion, and frost bite;
 - (2) Have documentation that, prior to providing personal care services without supervision in the facility, the staff member met one of the following requirements:
 - (a) Successfully completed training or continuing education that shall cover, as is necessary to meet the needs of residents in the facility, the following:
 - (i) The correct techniques of providing personal care services as required by the staff member's job responsibilities;
 - (ii) Observational skills such as recognizing changes in residents' normal status and the facility's procedures for reporting changes; and

(iii) Communication and interpersonal skills.

The training or continuing education shall be provided by a registered nurse or a licensed practical nurse under the direction of a registered nurse and be sufficient to ensure that the staff member receiving the training can demonstrate an ability to provide the personal care services. The facility may utilize other health care professionals acting within the scope of the professional's practice as part of the training or continuing education; or

- (b) Successfully completed the training and competency evaluation program and competency evaluation program approved or conducted by the director under section 3721.31 of the Revised Code; or
 - (c) Successfully completed the training or testing requirements in accordance with the medicare condition of participation of home health aide services, 42 C.F.R. 484.4 and 484.36;
- (3) If the residential care facility provides accommodations to individuals, other than those identified in paragraph (C) of rule 3701-17-52 of the Administrative Code, with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both, each staff member shall have documentation that the staff member successfully completed training or continuing education in the appropriate interventions for meeting these needs and for handling and minimizing such problems. The documentation required by this paragraph shall be signed and dated by the provider of the training.
- (4) Successfully complete at least eight hours of continuing education annually. The continuing education hours referenced in paragraphs (G), (H), and (I) of this rule may count towards this annual requirement.
- (5) For purposes of this rule, "annual" means a calendar year. This training may be pro-rated from the employee's date of hire.
- (F) Staff members whose job responsibilities will include supervising special diets shall be trained by a dietitian prior to performing this responsibility.
- (G) Except as provided in paragraph (I) of this rule, staff members employed by a residential care facility, or part thereof, that admits or retains residents with late-stage cognitive impairment with significant ongoing daily living assistance needs, or cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both, shall have, within fourteen days of the first day of work, two hours of training in Alzheimer's and/or dementia care. Staff members shall receive four hours of continuing education in Alzheimer's disease, dementia or related disorders annually.
- (1) The initial training required by this rule may be counted toward the training requirement of paragraph (E)(3) of this rule;

- (2) The four hours of continuing education required by this rule may be counted toward the continuing education requirements of paragraph (E)(4) of this rule.
- (H) Except as provided in paragraph (I) of this rule, staff members employed by a residential care facility, or part thereof, that admits or retains residents with diagnoses of serious mental illness shall have, within fourteen days of the first day of work with these residents, two hours of training in serious mental illness care. Staff members shall receive four hours of continuing education in serious mental illness care annually.
 - (1) The initial training required by this rule may be counted toward the training requirements of paragraph (E)(3) of this rule;
 - (2) The continuing education required by this rule may be counted toward the continuing education requirements of paragraph (E)(4) of this rule.
- (I) Staff members employed by a residential care facility, or part thereof, that admits or retains residents with late-stage cognitive impairment with significant ongoing daily living assistance needs, or cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both, and that admits or retains residents with diagnoses of serious mental illness, shall have both the initial training and the continuing education required by paragraphs (G) and (H) of this rule. The four hours of continuing education shall be provided in equal proportions between cognitive impairments and serious mental illness.
 - (1) The initial training required by this rule may be counted toward the training requirements of paragraph (E)(3) of this rule;
 - (2) The four hours of continuing education required by this rule may be counted toward the continuing education requirements of paragraph (E)(4) of this rule.
- (J) The initial training required by paragraphs (G), (H) and (I) of this rule must be conducted by a qualified instructor for the topic covered. The annual continuing education requirements of paragraphs (G), (H) and (I) in this rule may be completed online or by other media provided there is a qualified instructor present to answer questions and to facilitate discussion about the topic at the end of the lesson.
- (K) The administrator shall meet either of the following qualifications:
 - (1) The individual is licensed as a nursing home administrator under Chapter 4751. of the Revised Code; or
 - (2) The individual meets one of the following criteria at the time of employment:
 - (a) Has three thousand hours of direct operational responsibility for a senior housing facility, health care facility, residential care facility, adult care facility or any other group home licensed or approved by the state;

- (b) Has successfully completed one hundred credit hours of post high school education in the field of gerontology or health care;
 - (c) Holds a baccalaureate degree; or
 - (d) Is a licensed health professional as that term is defined in rule 3701-17-07.1 of the Administrative Code.
- (3) The administrator shall receive annually at least nine hours of continuing education in the fields of gerontology, health care, business administration, or residential care facility operation. Successful completion of course work at an accredited college or university, or of courses approved by the following entities, may be used to demonstrate compliance with this paragraph:
- (a) The Ohio state bar association;
 - (b) The Ohio state board of nursing;
 - (c) The Ohio state board of pharmacy;
 - (d) The Ohio state board of psychology;
 - (e) The Ohio state board of nursing home administrators;
 - (f) The Ohio state medical board; or
 - (g) Any other health-related state board organized pursuant to Title 47 of the Revised Code.
- (4) Individuals employed as residential care facility administrators on the effective date of these rules who do not meet the qualifications of this rule shall have three years from the effective date of this rule to come into compliance.
- (L) The operator or administrator shall ensure that each staff member, other than a volunteer who does not provide personal care services, receives and completes orientation and training applicable to the staff member's job responsibilities within three working days after beginning employment with the residential care facility. The orientation and training required by this paragraph shall include at least orientation to the physical layout of the residential care facility, the staff member's job responsibilities, the residential care facility's policies and procedures, training in how to secure emergency assistance, and residents' rights. A staff member shall not stay alone in the residential care facility with residents until the staff member has received the orientation and training required under this paragraph and the general staff training in fire control and evacuation procedures required under paragraph(P) of rule 3701-17-63 of the Administrative Code.
- (M) Each residential care facility shall provide appropriate staff training to implement each resident right under division (A) of section 3721.13 of the Revised Code on an annual basis and additionally as needed. The training required by this rule shall include, but not be limited to, an explanation of:

- (1) The residents' rights and the staff's responsibility in implementation of the rights;
 - (2) The staff's obligation to provide all residents who have similar needs with comparable service.
- (N) Except as provided in Chapter 3701-13 of the Administrative Code no residential care facility shall employ a person who applies on or after January 27, 1997, 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; or
 - (2) Fails to complete the form(s) or provide fingerprint impressions as required by division (B)(2) of section 3721.121 of the Revised Code.

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3701-17-57 Resident agreement: other information to be provided upon admission; risk agreements.

- (A) A residential care facility shall not admit an individual who requires services or accommodations beyond that which a residential care facility is authorized to provide under paragraph (D) of rule 3701-17-51 of the Administrative Code or beyond that which the specific facility provides.
- (B) Except for residents receiving hospice care, no residential care facility shall admit or retain an individual who:
 - (1) Requires skilled nursing care that is not authorized by section 3721.011 of the Revised Code or is beyond that which the specific facility can provide;
 - (2) Requires medical or skilled nursing care at least eight hours per day or forty hours per week;
 - (3) Requires chemical or physical restraints as defined in paragraph (L) of rule 3701-17-59 of the Administrative Code;
 - (4) Is bedridden with limited potential for improvement;
 - (5) Has stage III or IV pressure ulcers; or
 - (6) Has a medical condition that is so medically complex or changes so rapidly that it requires constant monitoring and adjustment of treatment regimen on an ongoing basis.
- (C) A residential care facility shall enter into a written resident agreement with each prospective resident prior to beginning residency in the residential care facility. The agreement shall be signed and dated by the operator or administrator and the prospective resident or, if the prospective resident is physically unable to sign and consents, another individual designated by the prospective resident. The facility shall provide both the prospective resident and any other individual signing on the resident's behalf with a copy of the agreement and shall explain the agreement to them.
- (D) The agreement required by paragraph (C) of this rule shall include at least the following items:
 - (1) An explanation of all charges to the resident including security deposits, if any are required;
 - (2) A statement that all charges, fines, or penalties that shall be assessed against the resident are included in the resident agreement;
 - (3) A statement that the basic rate shall not be changed unless thirty days written notice is given to the resident or, if the resident is unable to understand this information, to his or her sponsor;

- (4) An explanation of the residential care facility's policy for refunding charges in the event of the resident's absence, discharge, or transfer from the facility and the facility's policy for refunding security deposits;
 - (5) An explanation of the services offered by the facility, the types of skilled nursing care that the facility provides or allows residents to receive in the facility, the providers that are authorized to render that care, and the limitations of the type and duration of skilled nursing care that is offered;
 - (6) An explanation of the extent and types of services the facility will provide to the resident and who is responsible for payment;
 - (7) A statement that the facility must discharge or transfer a resident when a resident needs skilled nursing care beyond the limitations identified in paragraph (D)(5) of this rule.
- (E) Prior to admission or upon the request of a prospective resident or prospective resident's sponsor, the residential care facility shall provide the resident or resident's sponsor with a copy and explain the contents of the following policies:
- (1) The facility's residents' rights policy and procedures required by section 3721.12 of the Revised Code;
 - (2) The facility's smoking policy required by paragraph (T) of rule 3701-17-63 of the Administrative Code;
 - (3) The facility's policy regarding advance directives and an explanation of the rights of the resident under state law concerning advance directives. A residential care facility may not require an execution of an advance directive as a condition for admission;
 - (4) The definition of skilled nursing care as defined in rule 3701-17-50 of the Administrative Code;
 - (5) If required by paragraph (D) of rule 3701-17-52 of the Administrative Code, the facility's policy on care for individuals with Alzheimer's disease, dementia, or a related disorder by means of a special care unit.
 - (6) An explanation of the facility's ability to accommodate handicapped residents or potentially handicapped residents and the facility's policy regarding transferring residents to handicapped units; and
 - (7) Any other facility policies that residents must follow.
- (F) A residential care facility, or part thereof, that holds itself out as serving residents with late-stage cognitive impairment that significantly affects the resident's activities of daily living assistance needs or cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both, or residents with diagnoses of serious mental illness, shall disclose the written description required by rule 3701-17-52 of the Administrative Code to:
- (1) The director of health or his representative;

- (2) The family or responsible party for any prospective resident, or the resident himself; and
- (3) The state long term care ombudsperson or his or her representative.
- (G) A residential care facility may enter into a risk agreement with a resident or the resident's sponsor with the consent of the resident. Under a risk agreement, the resident or sponsor and the facility agree to share responsibility for making and implementing decisions affecting the scope and quantity of services provided by the facility to the resident. The facility shall identify the risks inherent in a decision made by a resident or sponsor not to receive a service provided by the facility. A risk agreement is valid only if it is made in writing. The residential care facility shall maintain a copy of any risk agreement in the resident's record.
- (H) Each residential care facility that has a policy of entering into risk agreements shall provide each prospective resident, or the prospective resident's sponsor with the consent of the resident, a written explanation of the policy and the provisions that may be contained in a risk agreement. At the time the information is provided, the facility shall obtain a statement signed by the individual receiving the information acknowledging that the individual received the information. The facility shall maintain the signed statement on file.

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Resident health assessments.

- (A) The residential care facility, in accordance with this rule shall require written initial and periodic health assessments of prospective and current residents. The different components of the health assessment may be performed by different licensed health professionals, consistent with the type of information required and the professional's scope of practice, as defined by applicable law. In conducting the assessment, the licensed health professional may use resident information obtained by or from unlicensed staff as long as the licensed health professional evaluates such information in accordance with their applicable scope of practice. The residential care facility shall ensure that all components of the assessments required by this rule are completed and that residents do not require accommodations or services beyond those that the residential care facility provides. Each residential care facility shall, on an annual basis, offer to each resident a vaccination against influenza and a vaccination against pneumococcal pneumonia as required by section 3721.041 of the Revised Code.
- (B) Each resident shall be initially assessed within forty-eight hours of admission, except that paragraphs (C)(11) and (C)(12) of this rule shall be performed within fourteen days after admission. If the resident had an assessment meeting the requirements of paragraph (C) of this rule performed no more than ninety days before beginning to reside in the residential care facility, the resident is not required to obtain another initial assessment.
- (C) The initial health assessment shall include documentation of the following:
- (1) Medical diagnoses, if applicable;
 - (2) Psychological history, if applicable;
 - (3) Health history and physical, including cognitive functioning and sensory and physical impairments;
 - (4) Developmental diagnosis, if applicable;
 - (5) Prescription medications;
 - (6) Dietary requirements, including any food allergies;
 - (7) Height and weight;
 - (8) A functional assessment which evaluates how the resident performs activities of daily living and instrumental activities of daily living. For the purposes of this paragraph, "instrumental activities of daily living" means using the telephone, acquiring and using public and private transportation, shopping, preparing own meals, performing housework, laundering, performing heavy chores, managing legal and financial affairs, and doing yardwork or maintenance;
 - (9) Type of care or services, including the amount, frequency, and duration of skilled nursing care the resident needs as determined by a licensed health

professional in accordance with the resident's assessment under paragraph (C) of this rule;

- (10) A determination by a physician as to whether or not the resident is capable of self-administering medications. The documentation also shall specify what assistance with self-administration, as authorized by paragraph (F) of rule 3701-17-59 of the Administrative Code, if any, is needed or if the resident needs to have medications administered in accordance with paragraphs (G) and (H) of rule 3701-17-59 of the Administrative Code;
 - (11) If skilled care is provided to the resident by staff members, a determination by a physician or nurse of:
 - (a) Whether the resident's personal care needs have been affected by the skilled nursing care needs, other than the administration of medication or supervision of special diets; and
 - (b) Whether any changes are required in the manner personal care services are provided. The individual conducting the assessment shall establish the extent, if any, of the changes required.
 - (12) If skilled care is provided to the resident by staff members, the resident's attending physician shall sign orders documenting the need for skilled nursing care, including the specific procedures and modalities to be used and the amount, frequency, and duration. This care shall be provided and reviewed pursuant to paragraph (B) of rule 3701-17-59.1 of the Administrative Code.
- (D) Subsequent to the initial health assessment, the residential care facility shall require each resident's health to be assessed at least annually unless medically indicated sooner. The annual health assessment shall be performed within thirty days of the anniversary date of the resident's last health assessment. This health assessment shall include documentation of at least the following:
- (1) Changes in medical diagnoses, if any;
 - (2) Updated dietary requirements, including any food allergies;
 - (3) Weight;
 - (4) Prescription medications;
 - (5) A functional assessment as described in paragraph (C)(8) of this rule;
 - (6) Type of care or services, including the amount, frequency, and duration of skilled nursing care, the resident needs as determined by a licensed health professional in accordance with paragraph (D) of this rule;
 - (7) A determination by a physician as to whether or not the resident is capable of self-administering medications. The documentation also shall specify what assistance with self-administration, as authorized by paragraph (F) of rule 3701-17-59 of the Administrative Code, if any, is needed or if the resident

needs to have medications administered in accordance with paragraphs (G) and (H) of rule 3701-17-59 of the Administrative Code; and

- (8) If skilled care is provided to the resident by staff members, a determination by a physician or nurse of:
 - (a) Whether the resident's personal care needs have been affected by the skilled nursing care needs, other than the administration of medication or supervision of special diets; and
 - (b) Whether any changes are required in the manner personal care services are provided. The individual conducting the assessment shall establish the extent, if any, of the changes required.
- (E) The residential care facility shall require each resident's health to be assessed if a change in condition or functional abilities warrants a change in services or equipment. The assessment shall include, as applicable, documentation of paragraphs (D)(1) to (D)(8) of this rule. The facility shall make a good faith effort to obtain information from residents about assessments independently obtained outside the facility.
- (F) Prior to admitting or transferring a resident who has an impairment listed in paragraph (C) of rule 3701-17-52 of the Ohio Administrative Code to a special care unit that restricts the resident's freedom of movement, the residential care facility shall ensure that a physician has made a determination that the admission or transfer to the special care unit is needed. A resident who is not cognitively impaired may live in a special care unit provided his or her freedom of movement is not restricted in any way.
- (G) In addition to the requirements of paragraphs (C), (D), and (E) of this rule, prior to or within forty-eight hours after admission, residents who have not had previous known significant blood assay for M. tuberculosis (BAMT) or Mantoux tests and who do not have a record of a BAMT or of a two-step or single step Mantoux testing within the twelve months preceding admission shall have a single BAMT, or two-step Mantoux test using five tuberculin units of purified protein derivative. If a resident has had a BAMT, a two-step Mantoux test, or a single Mantoux test within one year of admission the resident need only obtain a single BAMT or Mantoux test.
 - (1) The first step should be read within forty eight to seventy two hours following application. If the first step is nonsignificant for the Mantoux test, the second step shall be performed no less than seven or more than twenty-one days from the date of the first step.
 - (2) The residential care facility shall assure that residents with significant BAMT or Mantoux tests are reviewed for history and symptoms by a physician or other appropriate licensed health care professionals acting within their applicable scope of practice and that they have had a chest x-ray within thirty days before or within forty-eight hours after notification of significant test results. If appropriate, the physician or applicable health care professional shall order a repeat x-ray.

Additional BAMT or Mantoux testing is not required after one medically documented significant test. The residential care facility shall assure that a resident who exhibits signs and symptoms of tuberculosis is reassessed. A subsequent chest x-ray is not required unless the individual develops symptoms consistent with active tuberculosis.

- (3) Residents with nonsignificant BAMT or Mantoux tests shall receive a single BAMT or Mantoux test if they are exposed to a known case of tuberculosis and another BAMT or single Mantoux performed no less than ninety days after break of exposure. If the test reveals evidence of conversion, the resident shall have a chest x-ray unless the resident has had a chest x-ray no more than thirty days before the date of the significant BAMT or Mantoux test and the physician or other licensed health professional determines another x-ray is not needed.
 - (a) If the chest x-ray does not reveal active pulmonary tuberculosis, the residential care facility shall document that the resident has been evaluated and considered for preventive treatment. The facility shall assess the resident for signs and symptoms suggesting tuberculosis and shall annually document the presence or absence of symptoms in the resident's record.
 - (b) If the chest x-ray reveals active pulmonary tuberculosis, the residential care facility shall manage the resident in accordance with guidelines issued by the U.S. centers for disease control and prevention for respiratory precaution
- (4) If a resident is transferred to the facility from another component of a retirement community and the other component has performed tuberculosis testing that complies with paragraph (G) of this rule, the facility need not perform any additional tuberculosis testing that otherwise would be required by paragraph (G) of this rule.
- (5) The residential care facility shall require participants of an adult day care program provided by and on the same site as the residential care facility to comply with the requirements of paragraph (G) of this rule if the program is located or shares space within the same building as the residential care facility, day care participants and residents of the facility intermingle, or if there is a sharing of staff between the program and the facility. If an adult day care participant is assessed as having active pulmonary tuberculosis, the residential care facility shall not permit the participant to enter the facility until the appropriate local public health authority determines the participant is no longer infectious.
- (6) Within thirty days of the anniversary date of the previous testing, each resident shall have a single BAMT or Mantoux test repeated annually unless the resident previously had a significant BAMT or Mantoux test.
- (7) Residents admitted to the residential care facility for stays of less than ten days are exempted from the testing required by paragraph (G) of this rule if the facility:

- (a) Assesses the resident upon admission for symptoms of tuberculosis;
and
 - (b) Ensures that a resident assessed as having symptoms of tuberculosis has the chest x-ray and follow-up required by paragraph (G) of this rule.
- (H) If a resident needs services or accommodations beyond that which a residential care facility is authorized to provide or beyond that which the specific facility provides, refuses needed services, or fails to obtain needed services for which the resident agreed to be responsible under the resident agreement required by rule 3701-17-57 of the Administrative Code, the residential care facility shall take the following action:
- (1) Except in emergency situations, the residential care facility shall meet with the resident, and, if applicable, the resident's sponsor and discuss the resident's condition, the options available to the resident including whether the needed services may be provided through a medicaid waiver program, and the consequences of each option;
 - (2) If the lack of needed services has resulted in a significant adverse change in the resident, the residential care facility shall seek appropriate intervention in accordance with paragraph (A) of rule 3701-17-62 of the Administrative Code. If an emergency does not exist the facility shall provide or arrange for the provision of any needed services that the resident has not refused until the resident is discharged or transferred or the resident and the facility have mutually resolved the issue in a manner that does not jeopardize the resident's health or the health, safety or welfare of the other residents. This paragraph does not authorize a facility to provide skilled nursing care beyond the limits established in section 3721.011 of the Revised Code; and
 - (3) The residential care facility shall transfer or discharge the resident in accordance with section 3721.16 of the Revised Code and Chapter 3701-61 of the Administrative Code if the resident needs skilled nursing care or services beyond what the facility provides and the residential care facility, based on the meeting with the resident required by paragraph (H)(1) of this rule, determines that such action is necessary to assure the health, safety and welfare of the resident or the other residents of the facility. The residential care facility may retain a resident who refuses available services if doing so does not endanger the health, safety, and welfare of other residents and the resident does not require services beyond that which a facility is authorized to provide under Chapter 3721. of the Revised Code and rules 3701-17-50 to 3701-17-68 of the Administrative Code.

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Part-time intermittent skilled nursing care.

(A) A residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication only if the skilled nursing care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period regardless of any transfer or discharge and readmission to the facility, unless the skilled nursing care is allowed by division (D) of section 3721.011 of the Revised Code. A part-time, intermittent basis means that skilled nursing care is rendered for less than eight hours a day or less than forty hours a week. For the purposes of this provision:

(1) The residential care facility shall use the following criteria in tracking the one hundred and twenty days of part-time, intermittent skilled nursing care permitted under this paragraph:

- (a) Self-care shall not be counted toward the allowable one hundred twenty days;
- (b) Services provided by physical and occupational therapists and assistants licensed under Chapter 4755. of the Revised Code and speech-language pathologists licensed under Chapter 4753. of the Revised Code do not constitute skilled nursing care and shall not be counted;
- (c) Only days on which skilled nursing care is performed shall be counted toward the allowable one hundred and twenty days;
- (d) Medication administration, supervision of special diets and or application of dressings shall be counted toward the allowable one hundred and twenty days, if the residential care facility does not provide for these services, pursuant to rule 3701-17-59 of the Administrative Code.

(2) Skilled nursing care may be provided by one or more of the following:

- (a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended (1981);
- (b) A hospice care program licensed under Chapter 3712. of the Revised Code;
- (c) A member of the staff who is authorized under state law to provide skilled nursing care.

If a resident's condition requires more skilled nursing care than permitted under this paragraph, the residential care facility shall transfer or discharge the resident in accordance with section 3721.16 of the Revised Code and Chapter 3701-61 of the Administrative Code.

(B) Except as set forth in paragraph (D) of this rule, each residential care facility that provides skilled nursing care using staff members shall:

- (1) Develop and follow policies and procedures which assure that the skilled nursing care is provided in accordance with acceptable standards of practice;
- (2) Ensure that the skilled nursing care is provided in accordance with accepted standards of practice only by individuals authorized under state law to provide skilled nursing care. Skilled nursing care may be delegated in accordance with Chapter 4723-13 of the Administrative Code;
- (3) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home or other appropriate health care setting. The evaluation and determination shall be performed by the appropriate licensed health care professional and documented in the resident's record;
- (4) Document all skilled nursing care provided by the residential care facility in the resident's record. Such documentation shall include, but not be limited to, medication and treatment orders when needed to authorize provision of a service and nurse's notes indicating the nature of the service provided and the resident's status. All orders shall be signed and dated by the licensed health professional who gave the order within fourteen days after the order was given;
 - (a) Telephone orders shall not be accepted by a person other than a licensed nurse on duty, another physician or a pharmacist, except that a licensed health professional may receive, document and date medication and treatment orders concerning his or her specific discipline for residents under their care, to the extent permitted by applicable licensing laws.
 - (b) The residential care facility may accept signed treatment and medication orders issued by a licensed health professional by facsimile transmission if the facility has instituted procedural safeguards for authentication and maintaining confidentiality of the facsimile order, and for handling the order in an expedient and priority manner.
 - (c) 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.
- (5) Meet the skilled nursing care needs of each resident receiving care as determined by the assessment required under rule 3701-17-58 of the Administrative Code and consistent with the resident agreement required under rule 3701-17-57 of the Administrative Code; and
- (6) Ensure that a nurse coordinates the overall nursing care of each resident who receives skilled nursing care from facility staff.

For purposes of this paragraph, skilled nursing care means skilled nursing care other than the administration of medication, the supervision of special diets, or the application of dressings.

- (C) In addition to the requirements of paragraphs (A) and (B) of this rule, each residential care facility that provides enteral tube feedings on a part-time intermittent basis shall:
- (1) Establish in writing the types of enteral tube feedings that are routinely managed by the facility. The determination of the types of enteral tube feedings that are provided by the facility shall be based on staff education, staff competence, the amount of staff experience with the listed types of enteral tube feedings, and support services available in the facility;
 - (2) Develop and follow policies and procedures which assure that enteral tube feedings are prepared and offered as ordered and that sanitary conditions are maintained in procurement, storage, preparation, and the administration of the enteral tube feedings;
 - (3) Document the weight of the resident and the resident's acceptance and tolerance of the enteral tube feedings in accordance with policies and procedures developed by the dietitian and the nurse responsible for the overall nursing care of the resident; and
 - (4) Provide or arrange for a dietitian.
- (D) A residential care facility shall enter into a written agreement with the hospice care program licensed under Chapter 3712. of the Revised Code for each hospice care patient that the residential care facility admits or retains that requires skilled nursing care for more than one hundred twenty days as allowed by division (D) of section 3721.011 of the Revised Code. The agreement between the residential care facility and the hospice care program shall include a statement signed by the hospice patient and/or the patient's sponsor acknowledging that they understand the agreement and that the patient's needs can be met at the facility. The agreement shall not be complete without this signed statement. Additionally, the agreement shall include all of the following provisions:
- (1) That the hospice patient will be provided skilled nursing care in the facility only if a determination has been made that the patient's need can be met at the facility. This determination shall be made by the hospice care program, the residential care facility and the resident's attending physician, the hospice medical director, or both;
 - (2) That the hospice patient will be retained in the facility only if periodic re-determinations are made that the patient's needs can be met at the facility;
 - (3) That the re-determinations will be made according to a schedule specified in the agreement. The re-determinations required by this rule must be made at least every fourteen days; and
 - (4) That the hospice patient has been given an opportunity to choose the hospice care program that best meet the patient's needs.

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Personal care services; medication administration; resident medications; application of dressings; supervision of special diets.

(A) For the purposes of this rule;

- (1) Personal care services or skilled nursing care shall be considered to be provided by a residential care facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor his or her sponsor is a party.
- (2) A residential care facility may provide the skilled nursing care authorized by paragraphs (J) and (K) of this rule through the following arrangements as long as the residential care facility complies with the applicable provisions of this rule:
 - (a) Qualified staff members of the residential care facility;
 - (b) Through agreements or contractual arrangements, including but not limited to, contracts with a home health agency certified under Title XVIII of "the Social Security Act", 42 U.S.C.A. 301, as amended (1981), or a licensed hospice care program, licensed under Chapter 3712. of the Revised Code.

(B) Each residential care facility shall:

- (1) Specify in its policies and the resident agreements, required by rule 3701-17-57 of the Administrative Code, the extent and types of personal care services it provides; and
- (2) Provide personal care services to its residents who require those services, unless the resident and the facility have entered into a risk agreement under rule 3701-17-57 of the Administrative Code or the resident has refused services, and may provide personal care services to other residents upon request.

Nothing in this paragraph shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance unless requested.

(C) If a resident requires certain personal care services that the residential care facility does not offer:

- (1) The facility shall comply with paragraph (H) of rule 3701-17-58 of the Administrative Code; and
 - (a) The facility or the resident shall arrange for the services to be provided;
or

- (b) The facility shall transfer the resident to an appropriate setting or discharge the resident in accordance with section 3721.16 of the Revised Code and Chapter 3701-61 of the Administrative Code; or
 - (2) The facility and the resident may enter into a risk agreement in accordance with paragraphs (G) and (H) of rule 3701-17-57 of the Administrative Code, if the facility has a policy of entering into such agreements.
- (D) Each residential care facility shall ensure that personal care services are provided to residents:
- (1) In accordance with acceptable standards of care;
 - (2) By staff members meeting the training requirements of rule 3701-17-55 of the Administrative Code; and
 - (3) That meet the needs of residents as determined in the resident assessments required under rule 3701-17-58 of the Administrative Code and consistent with the resident agreements under rule 3701-17-57 of the Administrative Code.
- (E) A residential care facility may provide for the administration of medication to residents in accordance with division (B) of section 3721.011 of the Revised Code and this rule.
- (1) All medication taken by residents of residential care facilities shall be self-administered, and members of the staff of a residential care facility shall not administer medication to residents, except that medication may be administered in accordance with division (B) of section 3721.011 of the Revised Code and paragraphs (G) and (H) of this rule.
 - (2) A residential care facility may admit or retain an individual requiring medication only if the individual is capable of taking his or her own medication and biologicals, as determined in writing by the person's attending physician or the facility provides for the administration of medication by:
 - (a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended (1981);
 - (b) A hospice care program licensed under Chapter 3712. of the Revised Code; or
 - (c) A member of the staff of the residential care facility who is qualified to perform medication administration.
- (F) Staff members may assist with self-administration of medication by doing any of the following once they have received training in providing the services, as required by paragraph (E) of rule 3701-17-55 of the Administrative Code:
- (1) Remind a resident when to take medication, and watch to ensure that the resident follows the directions on the container;

- (2) Assist a resident in self-administration of medication by taking the medication from the locked area, where it is stored and handing it to the resident. The staff member shall check the name on the prescription label and verify that the resident's name on the prescription label corresponds to the resident requesting the medication before handing it to the resident. The staff member may read the label and directions on the medication container to the resident upon request. The staff member also may remind the resident and any other individual designated by the resident when prescribed medication needs to be refilled. Staff members shall not assist a resident with self-administration of a prescription medication that belongs to another resident. If the resident is physically unable to open a container, a staff member may open the container for the resident; and
 - (3) Assist a physically impaired but mentally alert resident such as, but not limited to, a resident with arthritis, cerebral palsy, or Parkinson's disease, upon that resident's request, in removing oral or topical medication from containers and in consuming or applying the medication upon request by or with the consent of the resident. If the resident is physically unable to place a dose of medicine to his or her mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident. As used in this paragraph, "topical medication" means a medication, other than a debriding agent used in the treatment of a skin condition or minor abrasion, and eye, nose, or ear drops excluding irrigations.
 - (4) Assist a resident with organizing the resident's medications in a weekly pill organizer if the resident is able to differentiate between pills and actively participates in the organization. Nothing in this rule shall be construed to allow facility staff members to fill a weekly pill organizer for a resident.
- (G) Medication shall be administered in accordance with accepted standards of practice to a resident in a residential care facility only by the following persons authorized by law to administer medication:
- (1) A registered nurse;
 - (2) A licensed practical nurse holding proof of successful completion of a course in medication administration approved by the Ohio board of nursing pursuant to Chapter 4723. of the Revised Code who shall administer medication only at the direction of a registered nurse or physician;
 - (3) A physician; or
 - (4) A person authorized by law to administer medication.
- (H) Residential care facilities that administer medication shall comply with all of the following:
- (1) No medication shall be given to any resident unless ordered by a physician or individual authorized under state law to prescribe medications. Ordered medications shall be administered unless the resident refuses or the resident exhibits symptoms that contraindicate medication administration. If a medication is not administered, the staff member responsible for

administering the medication shall document in the resident's record why the medication was not administered. Telephone orders shall not be accepted by a person other than a licensed nurse, another physician or a pharmacist except that a licensed health professional may receive, document and date medication orders concerning his or her specific discipline, to the extent permitted by applicable licensing laws. If orders are given by telephone, they shall be recorded with the prescriber's name and the date, and the order signed by the person who accepted the order. All orders shall be signed by the physician who gave the order or other licensed health professional with prescriptive authority working in collaboration with the physician within fourteen days after the order was given. The residential care facility may accept facsimile and electronic documentation of orders in accordance with paragraph (B)(4) of rule 3701-17-59.1 of the Administrative Code;

- (2) All medications shall be given only to the individual resident for whom they are prescribed, given in accordance with the directions on the prescription or the physician's or other authorized prescriber's orders, and recorded on the resident's medication record required by paragraph (I)(7) of this rule;
 - (3) The person who administers the medication shall observe the resident for adverse effects, contraindications, and medication effectiveness. Such person shall notify the resident's attending physician of any undesirable effects and document these effects and the date and time of physician notification in the resident's medication record; and
 - (4) The residential care facility may administer drugs bearing the American hospital formulary service therapeutic class 4:00, 28:16:08, 28:24:08, or 28:24:92 only when necessary to treat a resident's medical condition and to assist the resident to attain his or her highest practicable physical, mental, and psychosocial well-being. Drugs used for this purpose are not considered chemical restraints as defined in paragraph (L) of this rule. Drugs in these classifications shall be administered only with the authorization of the attending physician, after personal examination of the resident and documentation of the medical condition being treated and reasons for use of the drug.
- (I) Residential care facilities shall handle residents' medication in accordance with the following requirements:
- (1) The residential care facility shall not stock or dispense medicines or drugs which may be sold only by prescription unless the facility has in its employ, on either a full-time or part-time supervisory and consulting basis, a pharmacist registered under Chapter 4729. of the Revised Code, who will be in complete control of such stock and the dispensing thereof.
 - (2) The residential care facility shall keep all prescription medications in locked storage areas, including drugs requiring refrigeration, except medications of residents living in individual units who self-administer their own medications may be stored in the resident's unit if the resident and residential care facility take reasonable precautions to prohibit access to the medications by other residents.

- (3) The residential care facility shall assure that the labeling of prescription medicine and drugs meet the following criteria:
 - (a) Every container of medicine and drugs prescribed for a resident for self-administration or assistance by non-licensed health care personnel, shall be clearly labeled with the resident's name, the proprietary or generic name of the medication dispensed and its strength, the name and address of the dispensing pharmacy, the name or initials of the dispensing pharmacist, the prescription number, the date dispensed, the name of the prescribing physician or individual authorized under state law to prescribe medications, and the instructions for use including any cautions which may be required by federal or state law. Containers too small to bear a complete prescription label shall be labeled with at least the prescription number and the dispensing date and shall be dispensed in a container bearing a complete prescription label.
 - (b) Medicines and drugs dispensed by a health care facility pharmacy for administration by a licensed nurse or physician to residents whereby the medicines and drugs are not in the possession of the resident prior to administration shall be clearly labeled in accordance with rule 4729-17-10 of the Administrative Code.
 - (c) The residential care facility shall not repackage or relabel resident medications.
 - (d) Unless prescribed by a physician and dispensed by a pharmacy, or administered by facility staff acting within their scope of practice, over-the-counter medications kept by residents capable of self-administration do not need to meet the requirements of this chapter.
- (4) The residential care facility shall send a resident's medication with him or her upon permanent transfer or discharge or destroy or dispose them with the consent of the resident in accordance with any applicable state or federal laws and regulations.
- (5) If controlled substances are used, controlled substances shall be ordered, dispensed, administered, and disposed of in accordance with state and federal laws and regulations.
- (6) Each residential care facility shall keep a written list of all medications prescribed for each resident and shall make a good-faith effort to keep the list current.
- (7) Each residential care facility shall maintain an individual medication record for each resident to whom the residential care facility administers medications in which:
 - (a) Medication orders, including telephone, electronic, and facsimile orders, are recorded and signed by the prescriber; and
 - (b) All medications are recorded as given, documenting the name of the medication, date and time given, route of administration, and signed by the individual administering the medication.

- (J) Each residential care facility that provides for the application of dressings in accordance with division (A) of section 3721.011 of the Revised Code shall:
- (1) Establish in writing the services pertaining to the application of dressings that are routinely managed by the facility. The determination of the type of applications of dressings that are managed by the facility shall be based on staff education, staff competence, the amount of staff experience with the listed types of applications of dressings, and support services available in the facility;
 - (2) Develop and follow policies and procedures which assure that the application of dressings are provided in accordance with acceptable standards of practice;
 - (3) Ensure that the application of dressings are provided only by individuals authorized under state law to provide the application of the dressing. Skilled nursing care may be delegated in accordance with Chapter 4723-13 of the Administrative Code;
 - (4) Evaluate each resident at least once every seven days to determine whether the resident should be transferred to a nursing home or other appropriate health care setting. The evaluation and determination shall be performed by the appropriate health care professional and documented in the resident's record;
 - (5) Document all applications of dressings that are provided by the residential care facility in the resident's record. Such documentation shall include, but not be limited to, treatment and medication orders issued by appropriate licensed health care professionals when needed to authorize provision of a service and nurse's notes indicating the nature of the service provided and the resident's status. The residential care facility may accept facsimile and electronic orders in accordance with paragraph (B)(4) of rule 3701-17-59.1 of the Administrative Code; and
 - (6) Ensure that a nurse coordinates the overall nursing care of each resident who receives applications of dressings.
- (K) Each residential care facility that provides supervision of special diets shall comply with the applicable provisions of rule 3701-17-60 of the Administrative Code. The residential care facility may accept facsimile and electronic documentation of special diet orders in accordance with paragraph (B)(4) of rule 3701-17-59.1 of the Administrative Code;
- (L)
- (1) The residential care facility shall not physically, chemically or through isolation restrain residents. For the purposes of this paragraph:
 - (a) "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;

- (b) "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 or her highest practicable physical, mental, and psychosocial well-being; and
 - (c) "Freedom of movement" means the ability of the resident to move around within the context of the resident's functional capacity as assessed by the facility.
- (2) A residential care facility's use of the following items for the purposes stated in this paragraph shall 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;
 - (c) Placement of residents with those impairments listed in paragraph (C) of rule 3701-17-52 of the Administrative Code who are cognitively impaired in a specialized care unit that restricts their freedom of movement throughout the facility if;
 - (i) Care and services are provided in accordance with each resident's individual needs and preferences, not for staff convenience;
 - (ii) The need for continuation of placement of a resident in the secured unit is reviewed during each periodic assessment required by rule 3701-17-58 of the Administrative Code;
 - (iii) The secured unit meets the requirements of the state building and fire codes; and
 - (iv) Residents who are not cognitively impaired are able to enter and exit the unit without assistance.

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Dietary services; supervision of special diets.

- (A) Each residential care facility shall specify in its residential care facility policies and the resident agreements, required by rule 3701-17-57 of the Administrative Code, the amount and types of dietary services it provides. The facility shall elect to provide any of the following:
- (1) No meals;
 - (2) One, two, or three daily meals;
 - (3) Preparation of regular and special diets other than complex therapeutic diets; one, two, or three daily meals; or
 - (4) Preparation and supervision of special diets. Each facility that elects to supervise special diets shall provide three daily meals and meet the requirements of this chapter of the Administrative Code for the supervision of special diets;
 - (5) Each residential care facility that provides meals shall include a variety of food accommodating religious restrictions and ethnic and cultural preferences of residents in accordance with the residential care facility's policy.
- (B) Each residential care facility that agrees to provide three daily meals for a resident shall make available at least three nourishing, palatable, attractive and appetizing meals at regular hours. The meals shall provide the dietary referenced intake of the "Food and Nutrition Board" of the "National Academy of Science", be based on a standard meal planning guide from a diet manual published by a dietitian, approved by a dietitian, or both. There shall be at least a four-hour scheduled interval available between the breakfast and noon meal and between the noon and evening meal. The hours of meal service shall take into consideration residents' preferences. The facility shall make evening snacks available upon request and when needed.
- (C) Each residential care facility that agrees to provide one or two meals a day shall provide meals based on a standard meal planning guide from a diet manual published by a dietitian, approved by a dietitian, or both. Meals shall provide the dietary referenced intake of the "Food and Nutrition Board" of the "National Academy of Science," and shall follow the patterns set forth in this paragraph:
- (1) The breakfast meal shall include at least:
 - (a) One and one-half ounce cooked, edible portion of lean meat, eggs or legumes;
 - (b) One and one-half cups of fruit or vegetables;
 - (c) Two servings of enriched or whole grain bread or cereals;
 - (d) Two teaspoons of butter or margarine as appropriate; and

- (e) One cup of milk or milk product.
- (2) The lunch or dinner meals shall include at least:
 - (a) Two ounces cooked, edible portion of lean meat, eggs or legumes;
 - (b) One and one-half cups of fruit or vegetables;
 - (c) Two servings of enriched or whole grain bread or alternate;
 - (d) Two teaspoons of butter or margarine as appropriate; and
 - (e) One cup of milk or milk product.
- (3) Coffee, tea, or both may be offered as optional beverages for breakfast, lunch or dinner.
- (4) Each meal shall include the choice of appropriate condiments, sauces and dressings.
- (5) A residential care facility may choose to provide one serving of dessert or fruit during the lunch and dinner meals.
- (D) Each residential care facility that prepares special diets other than complex therapeutic diets shall:
 - (1) Prepare and provide the special diets in accordance with the instructions of a physician or dietitian; and
 - (2) Adjust special diet menus as instructed by a dietician or the resident's attending physician.
- (E) Each residential care facility that provides one or more meals and that does not permit residents to have food in their resident units shall make snacks available twenty-four hours a day.
- (F) Each residential care facility that does not provide any meals shall ensure that each resident unit is appropriately and safely equipped with food storage and preparation appliances which the facility maintains in safe operating condition or that each resident has access to an appropriately and safely equipped food storage and preparation area. Each residential care facility that does not provide any meals shall permit residents to store and prepare food in a safe manner in their resident units or in a resident food storage and preparation area.
- (G) Each residential care facility shall have a kitchen and other food service facilities that are adequate for preparing and serving the amount and types of meals the facility agrees to provide.
- (H) If applicable, the residential care facility shall have a food service operation license issued under Chapter 3701-21 of the Administrative Code.

- (I) Each residential care facility that provides meals shall procure, store, prepare, distribute, and serve all food in a manner that protects it against contamination and spoilage.
 - (1) Each residential care facility shall assure that the kitchen and dining areas are cleaned after each meal and shall:
 - (a) Transport meals in a sanitary manner to prevent contamination;
 - (b) Provide handwashing facilities, including hot and cold water, soap and individual towels in the food preparation and service area.
 - (c) Provide and maintain clean and sanitary kitchen and dining areas and a clean, sanitary and adequate supply of eating and drinking utensils, pots, and pans for use in preparing, serving, and eating appetizing meals and snacks;
 - (d) Place food scraps and trash in garbage cans with tightfitting lids and bag liners and shall empty garbage cans daily, or more often if needed. Nondisposable containers shall be cleaned frequently enough to maintain sanitary conditions. Disposable bags of garbage may be stored outside only in a non-absorbent container with a close-fitting cover. Liquid wastes resulting from compacting shall be disposed of as sewage.
 - (2) Residential care facilities may provide any format of meal service, which otherwise meet the requirements of this rule, with input from residents.
 - (3) Residential care facilities may provide a dining environment as natural and independent as possible, comparable with eating at home, with choices from a wide variety of food items tailored to the residents' wants and needs, which otherwise meet the requirements of this rule.
- (J) Each residential care facility that supervises special diets shall, at minimum:
 - (1) Provide dietary services in accordance with paragraph (B) of this rule;
 - (2) Assure that special diets are prepared and offered as ordered;
 - (3) Monitor and document resident acceptance of special diets;
 - (4) Monthly weigh and record the weights of residents on special diets:
 - (a) For residents on special diets other than complex therapeutic diets, notify either the dietitian or the resident's attending physician, or both of any unplanned significant weight changes in accordance with facility policies;
 - (b) For residents on complex therapeutic diets, notify the resident's attending physician and the dietitian required by paragraph (K) of this rule of any unplanned significant weight changes in accordance with policies and procedures developed by the dietitian.

- (5) Adjust special diet menus as directed by a licensed dietitian or the resident's attending physician.
- (K) Each residential care facility which supervises complex therapeutic diets shall provide or arrange for a dietitian to plan, oversee, and assist in implementing dietary services that meet the residents' needs and comply with the requirements of this rule. The dietitian shall, at a minimum, consult quarterly with the food service staff. Each residential care facility shall ensure the dietitian performs the following functions for residents on complex therapeutic diets:
- (1) Plan, oversee, and assist in the implementation of nutrition services that meet the needs of the residents;
 - (2) Evaluate the residents' acceptance of meal service and response to nutrition related interventions at least quarterly;
 - (3) Within one month after the facility begins supervising a new complex therapeutic diet, monitor staff that prepares or serves a new complex therapeutic diet and monitor the resident receiving a new complex therapeutic diet. The facility shall notify the dietitian upon receipt of a physician's order for a new complex therapeutic diet. For the purposes of this provision, "new complex therapeutic diet" means either a complex therapeutic diet that the residential care facility has never before supervised or a complex therapeutic diet that has been prescribed for a resident for the first time; and
 - (4) Oversees and assists in the training of food service staff in the preparation and serving of foods including any special dietary interventions.
- (L) Each residential care facility that provides meals shall maintain at all times for residents a one-week supply of staple foods and a two-day supply of perishable foods. The amount of such supplies shall be based on the number of meals the facility, through its admission policies and resident agreements, has decided to provide daily.
- (M) Each residential care facility that provides meals shall plan all menus for meals at least one week in advance. Food shall vary in texture, color and seasonal foods. Residential care facilities shall maintain records of dated menus, including complex therapeutic diets, as served for a period of at least one year. The records shall be made available to the director upon request. The records shall indicate any substitutions made to the menus except that alternate items offered to individual residents because of food intolerances or preferences do not need to be recorded unless the resident is on a complex therapeutic diet. All foods substituted shall be of similar nutritive value.
- (N) Each residential care facility that provides meals shall observe, supervise, and assist a resident in consuming meals if the resident needs observation, supervision, or assistance. The residential care facility shall ensure that food texture is appropriate to the individual needs of each resident, except that residential care facility staff shall not perform syringe feedings.

- (O) Residential care facilities shall not administer parenteral nutrition. A residential care facility may administer enteral tube feedings on a part-time intermittent basis in accordance with rule 3701-17-59.1 of the Administrative Code.
- (P) All residential care facilities shall provide safe drinking water which shall be accessible to residents at all times.
- (Q) A hospice patient's diet shall be planned by a dietitian, the hospice program, or both, as appropriate for that individual.

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- (A) The residential care facility shall specify in the resident agreements required by rule 3701-17-57 of the Administrative Code what laundry services it provides. The residential care facility shall launder or assist in arranging for the laundering of all clothing and bed and bath linen for residents who require laundry services as described in the resident agreement. The facility may provide a washer and dryer in the home for residents' use or may provide residents with transportation to and from a laundromat.
- (B) Each residential care facility shall encourage residents to participate in social, recreational, and leisure activities. The residential care facility shall provide or arrange for varied activities of sufficient quantity so that residents' lives may be more meaningful, to stimulate physical and mental capabilities and to assist residents in attaining their optimal social, physical, and emotional well-being, including self-care and maintenance. The residential care facility shall provide, at minimum, all of the following:
- (1) One local daily newspaper or current community activity brochures and advertisements;
 - (2) Information about the availability of transportation to community activities; and
 - (3) An opportunity for residents to engage in a variety of activities which may include, but shall not be limited to, television, crafts, reading, or games.
- (C) A residential care facility shall not coerce, induce, or prompt a resident to assign, transfer, give, or sign over to the facility money, valuables, insurance benefits, property, or anything of value other than payment for services rendered by the facility. A residential care facility shall not manage a resident's financial affairs unless authorized by the resident or a sponsor with power of attorney. Such authorization shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the residential care facility or its administrator. A facility that manages a resident's financial affairs shall do all of the following:
- (1) The residential care facility shall maintain accounts pursuant to division (A)(27)(b) of section 3721.13 of the Revised Code of resident funds and personal property or possessions deposited for safekeeping with the facility for use by the resident or resident's sponsor. The resident has the right to receive, upon written or oral request, an accounting statement of financial transactions made on the resident's behalf. This statement shall include:
 - (a) A complete record of all funds, personal property, or possessions from any source whatsoever, that have been deposited for safekeeping with the facility for use by the resident or resident's sponsor;
 - (b) A listing of all deposits and withdrawals transacted, which shall be substantiated by receipts that shall be available for inspection and copying by the resident or sponsor.

- (2) The residential care facility shall deposit the resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the facility's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited in an interest-bearing account may be deposited in a noninterest-bearing account or petty cash fund.
- (3) Each residential care facility that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director to assure the security of all residents' funds managed by the facility.
- (4) Upon the resident's transfer, discharge, or death, all resident accounts shall be closed and a final accounting made.
- (5) The residential care facility shall allow the resident access to his or her funds during normal bank business hours within the community.
- (D) Each residential care facility that allows animals or pets to visit or to reside in the facility shall establish and implement a written protocol regarding animals and pets that protects the health and safety of residents and staff members. The protocol shall establish the responsibilities of residents, staff members, animal handlers and pet owners.
- (E) Neither the administrator of a residential care facility nor facility staff may serve as the guardian of a resident unless related by blood, marriage, or adoption to that resident.

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Changes in residents' health status; incidents; infection control.

- (A) In the event of a significant adverse change in residents' health status, the residential care facility shall do all of the following:
- (1) Take immediate and proper steps to see that the resident receives necessary intervention including, if needed, medical attention or transfer to an appropriate medical facility;
 - (2) Make a notation of the change in health status and any intervention taken in the resident's record;
 - (3) Provide pertinent resident information to the person providing the intervention as soon as possible; and
 - (4) Notify the sponsor unless the resident refuses or requests otherwise.
- (B) As used in this paragraph, "incident" means any accident or episode involving a resident, staff member, or other individual in a residential care facility which presents a risk to the health, safety, or well-being of a resident. In the event of an incident, the facility shall do both of the following:
- (1) Take immediate and proper steps to see that the resident or residents involved receive necessary intervention including, if needed, medical attention or transfer to an appropriate medical facility; and
 - (2) Investigate the incident and document the incident and the investigation. The facility shall maintain an incident log separate from the resident record which shall be accessible to the director and shall contain the time, place, and date of the occurrence; a general description of the incident; and the care provided or action taken. The facility shall maintain a notation about the incident in the resident's record.
- (C) Each residential care facility shall establish and implement appropriate written policies and procedures to control the development and transmission of infections and diseases which, at minimum, shall provide for the following:
- (1) Individuals working in the facility shall wash their hands vigorously for ten to fifteen seconds before beginning work and upon completing work, before and after eating, after using the bathroom, after covering their mouth when sneezing and coughing, before and after providing personal care services or skilled nursing care, when there has been contact with body substances, after contact with contaminated materials, before handling food, and at other appropriate times;
 - (2) If the residential care facility provides any laundering services, the facility shall keep clean and soiled linen separate. Soiled laundry shall be handled as little as possible. Laundry that is wet or soiled with body substances shall be placed in moisture-resistant bags which are secured or tied to prevent spillage. Laundry staff shall wear moisture-resistant gloves, suitable for sorting and handling soiled laundry, and a moisture-resistant gown or

sleeved plastic apron if soiling of staff members' clothing is likely. The facility shall use laundry cycles according to the washer and detergent manufacturers' recommendations. Protective clothing shall be removed before handling clean laundry;

- (3) Individuals providing personal care services or skilled nursing care that may result in exposure to body substances, shall wear disposable vinyl or latex gloves as a protective barrier and shall remove and dispose of the used gloves and wash hands before contact with another resident. If exposed to body substances, the individual who has been exposed shall wash his or her hands and other exposed skin surfaces immediately and thoroughly with soap and water. The facility shall provide follow-up consistent with the guidelines issued by the U.S. centers for disease control and prevention for the prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers in effect at the time. Individuals providing personal care services or skilled nursing care shall wash their hands before and after providing the services or care even if they used gloves;
- (4) Place disposable articles (other than sharp items) contaminated with body substances 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 bagged, then sent for decontamination;
- (5) Wear a moisture-resistant gown or other appropriate protective clothing if soiling of clothing with body substances is likely;
- (6) Wear a mask and protective eye wear if splashing of body substances is likely or if a procedure that may create an aerosol is being performed;
- (7) Ensure that all hypodermic needles, syringes, lancets, razor blades and similar sharp wastes are disposed of by placing them in rigid, tightly closed puncture-resistant containers before they are transported off the premises of the facility, in a manner consistent with Chapter 3734. of the Revised Code. The residential care facility shall provide instructions to residents who use sharps on the proper techniques for disposing of them.

For the purposes of this paragraph, "body substance" means blood, semen, vaginal secretions, feces, urine, wound drainage, emesis, and any other body fluids that have visible blood in them.

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Building, plumbing, and fire safety requirements.

- (A) The building or buildings in which a residential care facility is located shall be approved by and have a certificate of occupancy for the appropriate use group designation issued by the local certified building department with jurisdiction over the area in which the building or buildings are located or by the department of commerce if there is no local certified building department. In the case of a license renewal, if any alterations to the buildings have been made since the original license was issued or the license was last renewed, whichever is later, the residential care facility shall have a certificate of occupancy for the residential care facility issued by the department of commerce or a local certified building department.
- (B) The plumbing fixtures in a residential care facility shall conform to the applicable provisions of the Ohio plumbing code.
- (C) All plumbing shall be installed in accordance with the Ohio plumbing code and maintained free of leakage and odors and have adequate water pressure to reasonably ensure resident health and safety protection. This includes, but is not limited to, plumbing in:
 - (1) water closets;
 - (2) service sinks;
 - (3) kitchens;
 - (4) utility closets;
 - (5) public and resident bathrooms;
 - (6) shower and bathing areas; and
 - (7) drinking fountains.
- (D) Lavatories, bathing facilities, and shower facilities shall be provided with pressure balancing thermostatic mixing devices in accordance with the Ohio plumbing code to prevent unanticipated changes in hot water temperatures.
- (E) The water supply for a residential care facility shall be taken from a public supply, if available. Each residential care facility using a water source other than a public water system shall comply with all applicable local and state regulations regarding the construction, development, installation, alteration, and use of private water systems.
- (F) Each residential care facility not using a public sewage disposal system shall comply with all applicable local and state regulations regarding the construction, development, installation, alteration, and use of household sewage disposal systems.
- (G) Each residential care facility shall comply with all the applicable state fire code standards of Chapter 1301:7-7 of the Administrative Code.

- (H) Each residential care facility shall be inspected for fire safety in accordance with paragraph (A) of rule 3701-17-53 of the Administrative Code.
- (I) Each residential care facility shall provide paths of clear and unobstructed access to egress exits. Additionally, the propping open of a door through the use of door stops, wedges or other devices shall be prohibited.
- (J) Each residential care facility shall develop and maintain a written disaster preparedness plan to be followed in case of emergency or disaster. A copy of the plan shall be readily available at all times within the residential care facility. Such plan shall include the following:
 - (1) Procedures for evacuating all individuals in the residential care facility, which shall include the following:
 - (a) Provisions for evacuating residents with impaired mobility; and
 - (b) Provisions for transporting all of the residents of the residential care facility to a predetermined appropriate facility or facilities that will accommodate all the residents of the residential care facility in case of a disaster requiring evacuation of the residential care facility.
 - (2) A plan for protection of all persons in the event of fire and procedures for fire control and evacuation, including a fire watch and the prompt notification of the local fire authority and state fire marshal's office when a fire detection, fire alarm, or sprinkler system is impaired or inoperable. For purposes of this rule, "fire watch" means the process required in the Ohio fire code for detecting and immediately alerting residents, staff, and the responding fire department of a fire or other emergency while the building's fire alarm or sprinkler system is impaired, inoperable or undergoing testing;
 - (3) Procedures for locating missing residents;
 - (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 facility; and
 - (5) Procedures, as appropriate, for ensuring the health and safety of residents in residential care facilities located in close proximity to areas known to have specific disaster potential, such as airports, chemical processing plants, and railroad tracks.
- (K) Each residential care facility shall conduct the following drills unless the state fire marshal allows a home to vary from this requirement and the residential care facility has written documentation to this effect from the state fire marshal:
 - (1) Twelve fire exit drills, one conducted on each shift at least every three months to familiarize staff members and residents with signals, evacuation procedures and emergency action required under varied times and conditions. Fire exit drills shall 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. Drills conducted between nine p.m. and six a.m. may use a coded announcement instead of an audible alarm. Fire drills shall meet the following requirements.

- (a) Each staff member shall participate in at least one fire drill annually.
 - (b) One staff member with knowledge of the disaster preparedness plan and the fire evacuation routes shall be designated to observe and evaluate each drill and shall not participate in that drill.
 - (c) Residents capable of self-evacuation shall be actually evacuated to safe areas or to the exterior of the residential care facility in at least two fire drills a year on each shift. Movement of non-ambulatory residents to safe areas or to the exterior of the facility is not required.
- (2) At least two disaster preparedness drills per year, one of which shall be a tornado drill which shall occur during the months of March through July.
- (3) The residential care facility shall reset the alarms after each drill.
- (L) Each residential care facility shall investigate all problems encountered in the drills required under paragraph (K) of this rule and take corrective action.
- (M) Each residential care facility shall keep a written record and evaluation of each fire drill which shall include the date, time, staff member attendance, method of activation, effectiveness of the drill procedures, number of individuals evacuated, total time for evacuation, and the weather conditions during the evacuation, and of each tornado drill. The records shall also describe any problems encountered and the corrective actions taken. This record shall be on file in the facility for three years.
- (N) Each residential care facility shall post in a conspicuous place in each section of the residential care facility a correctly oriented wall-specific floor plan designating room use, locations of alarm sending stations, evacuation routes and exits, fire alarms and fire extinguishers and flow of resident evacuation.
- (O) The buildings in which a residential care facility is housed shall be equipped with both an automatic fire extinguishing system and fire alarm system. Such systems shall conform to standards set forth in rules 4101:1-1 to 4101:1-35 and rules 1301:7-7-01 to 1301:7-7-45 of the Ohio Administrative Code. Records of the installation, testing and maintenance of both systems shall be kept at the facility and produced for inspection upon request.
- (P) All staff members in each residential care facility shall be trained in fire control and evacuation procedures within three working days of beginning employment. A staff member shall not stay alone in the residential care facility with residents until the staff member has received the training in fire control and evacuation procedures required by this rule.

- (Q) Each residential care facility shall 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. Records of this training shall be kept at the facility.
- (R) Each residential care facility shall train all residents in the proper actions to take in the event of fire, tornado, disaster, or other emergency.
- (S) Each residential care facility shall conduct at least monthly a fire safety inspection which shall be recorded on forms provided by the department and kept on file in the facility for three years.
- (T) Smoking shall be permitted only in properly designated areas which may include resident units with the approval of the administrator. No staff member, resident of a residential care facility or other persons in the facility shall be permitted to smoke, carry a lighted cigarette, cigar, or pipe or use any spark or flame producing device in any room or area in the facility where oxygen is stored or in use. Approved terminals of a piped oxygen supply does not constitute storage. "No smoking" signs shall be posted in areas and on doors of rooms where oxygen is stored or in use. Each residential care facility shall take reasonable precautions to ensure the safety of all residents when permitting residents to smoke. Ash trays, wastebaskets or containers into which burnable materials are placed shall not be made of materials which are flammable, combustible, or capable of generating quantities of smoke or toxic gases and shall be used solely for that purpose. Such containers shall be readily available in all areas where smoking is permitted.
- (U) Each residential care facility shall maintain all electrical systems including, but not limited to, cords, switches, lighting fixtures, and lamps in good, safe operating condition and ensure that appliances are in good, safe operating condition;
- (V) Each residential care facility shall 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 the department on forms provided by these entities.
- (W) Each residential care facility shall maintain written transfer agreements with other facilities that can meet the needs of residents who require transfer because their health and safety is or potentially is adversely affected by conditions in the facility.

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Space requirements.

- (A) For purposes of this rule, "habitable floor area" means the clear floor area of a bedroom or resident unit and the floor area occupied by the usual room furniture, such as beds, chairs, sofas, dressers, and tables and does not include areas partitioned off in the bedroom or resident unit such as closets and toilet rooms.
- (B) Each residential care facility shall provide resident unit space for each resident which meets the following criteria:
- (1) Except as provided for in paragraphs (B)(1)(a) and (B)(1)(b) of this rule, in facilities which were licensed prior to December 22, 1964, and in continuous operation since that date, every single-occupancy bedroom shall have a habitable floor area of not less than eighty square feet and every multi-occupancy bedroom shall have a habitable floor area of not less than seventy square feet per person.
 - (a) Resident units added after December 22, 1964, shall comply with paragraph (B)(2) of this rule; and
 - (b) Any building licensed as a facility on or before December 22, 1964, that discontinued operating as a facility and later resumed facility operation shall comply with paragraph (B)(2) of this rule.
 - (2) For every building or addition to a building erected or converted to use or initially licensed as a facility after December 22, 1964, every single-occupancy resident unit shall have a habitable floor area of not less than one hundred square feet and every multi-occupancy resident unit shall have a habitable floor area of not less than eighty square feet per person.
 - (3) No resident unit, bedroom, or similar division used for sleeping purposes by residents shall be occupied by more than four residents.
 - (4) A resident unit shall not be used as a passageway to other areas of the residential care facility.
 - (5) Each resident shall have a resident-activated call signal system in good working order that, at minimum, provides for the transmission of calls from resident rooms and toilet and bathing facilities and cannot be deactivated from any location except from where the resident initiated the call, unless the staff is able to communicate with the resident.
 - (6) Resident units shall be separated from halls, corridors, and other rooms by permanent floor-to-ceiling walls. Temporary partitions shall not be used to separate resident units;
 - (7) Each resident bedroom shall have a minimum of one window with a curtain, shade, or other appropriate covering to assure privacy and a screen if the window is operable;

- (8) Each residential care facility shall ensure that each resident unit is equipped with the furnishings and supplies specified in paragraph (C) of rule 3701-17-65 of the Administrative Code.
 - (9) Each residential care facility shall assign non-ambulatory residents to resident units on a floor that exits to ground level unless there is an elevator to accommodate movement of such residents to other floors of the facility.
- (C) Each residential care facility that provides meals shall have at least one room or suitable area to be used by residents for dining purposes that comfortably accommodates the number of residents to whom the residential care facility provides meals. All furniture shall be comfortable, safe, and functional.
- (D) As used in this paragraph, "bathroom" means a room or rooms including at least one toilet, one shower or bathtub, and one sink. Each residential care facility shall provide at least one toilet, one shower or bathtub, and one sink for every eight residents living in the residential care facility. Each residential care facility shall meet the following requirements regarding bathroom facilities:
- (1) The bathrooms and all the facilities therein shall be in good repair, in a clean and sanitary condition, free from filth and accumulation of waste.
 - (2) Where there are more than one toilet or more than one bathtub or shower in a bathroom, each toilet and each bathtub or shower shall be enclosed in such a way as to maintain the privacy of each resident.
 - (3) Where bathrooms are not available in connection with each resident unit, there shall be not less than one bathroom readily accessible from public spaces in each occupied story.
 - (4) Where there are more than four persons of one sex to be accommodated in one bathroom on a floor, a bathroom shall be provided on that floor for each sex residing on that floor.
 - (5) In addition to the provisions of paragraphs (D)(3) and (D)(4) of this rule, bathrooms shall conform to the Ohio building and plumbing codes.
 - (6) Toilet rooms and all the facilities therein shall, at all times, be kept in good repair, in a clean and sanitary condition, and free from filth and accumulated waste, and shall be provided with a supply of toilet tissue, unless provided by the resident as specified in the resident agreement. Each hand washing basin shall be provided soap and a self-draining device or other appropriate dispenser unless provided by the resident as specified in the resident agreement. At a minimum, the residential care facility shall provide toilet tissue and soap in a self-draining device or other appropriate dispenser. Toilet rooms shall be equipped to ensure full visual privacy.
 - (7) There shall be nonskid surfacing and handrails or grab bars in each bathtub and shower. Each residential care facility shall also provide handrails or grab bars near each toilet in resident units occupied by individuals who need assistance with activities of daily living or, if resident units do not have toilets, near a sufficient number of toilets on each floor of the facility to accommodate such individuals.

- (8) Each bathtub, shower, and sink shall have hot and cold running water. If the residential care facility is in control of the hot water temperature, the hot water shall be at least one hundred five degrees Fahrenheit and no more than one hundred twenty degrees Fahrenheit at the point of use. If a resident is in control of the hot water temperature in his or her resident unit, the residential care facility shall ensure that the hot water is at a safe temperature sufficient to meet the preferences of the resident.
- (9) In every building or addition to a building constructed or converted to use as a residential care facility after the effective date of this rule, there shall be one toilet room directly accessible from and exclusively for each resident sleeping room or apartment except the hand washing basin may be located in either the toilet room or the sleeping room. Buildings or additions in the planning stage for which there is a financial commitment for the stated purpose of developing the project and commencing construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events, prior to or on the effective date of this rule are exempted from this requirement.

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Building maintenance, equipment and supplies.

- (A) Each residential care facility shall maintain heating, electrical, and other building service equipment in good working and safe condition. Each residential care facility shall have its central heating system checked every two years by a heating contractor.
- (B) Each residential care facility shall maintain a clean, healthy environment by doing at least the following:
 - (1) Establishing and implementing housekeeping and maintenance procedures to assure a clean, safe, sanitary environment;
 - (2) Providing durable garbage and refuse receptacles to accommodate wastes. The residential care facility shall store all garbage and other refuse in leakproof containers with tight fitting covers until time of disposal, and dispose all wastes in a satisfactory manner;
 - (3) Eliminating any existing insects and rodents and taking effective measures to prevent the presence of insects and rodents in or around any building used for a residential care facility or part thereof. The extermination of insects and rodents shall be done in such a manner as not to create a fire or health hazard.
- (C) Unless the resident chooses to bring his or her own or as specified in the resident agreement, the residential care facility shall provide each resident with the following bedroom furnishings and supplies:
 - (1) An individual bed equipped with springs and a clean comfortable flame resistant mattress or a clean comfortable mattress with a flame resistant mattress cover. The bed shall be sturdy, safe, and in good condition. Rollaway beds and cots, double deck beds, stacked bunk beds, hide-a-bed couches, or studio couches do not meet the requirements of this rule.
 - (2) Bed linen which shall include at least two sheets, a pillow and pillow case, a bedspread, and one blanket that fit properly and are free of tears, holes, and excessive fraying or wear.
 - (a) The residential care facility shall ensure that the mattresses of incontinent residents are protected with an intact waterproof material unless contraindicated or otherwise ordered by a physician.
 - (b) The residential care facility shall provide each resident with additional blankets and pillows upon request and ensure that two sets of bed linen are available for each bed at all times. Residential care facilities shall ensure that bed linen is changed weekly and more often if soiled or requested by the resident.
 - (3) Closet or wardrobe space with a minimum width of twenty-two inches of hanging space sufficient in height and equipped for hanging full length garments and at least one shelf of adequate size within reach of the resident.

- (4) A bedside table, personal reading lamp, adequate bureau, dresser or equivalent space, a mirror appropriate for grooming, a waste basket with liners, and a chair with a padded back and seat, with arms for lateral support. If a resident has a wheelchair, the wheelchair may meet this requirement unless the resident indicates he or she wants a comfortable chair in addition to the wheelchair.
 - (5) Bath linen that includes at least two full towels, two face towels, and two washcloths.
 - (6) A shower curtain and appropriate hanging devices.
 - (7) Basic toiletry items and paper products.
- (D) In meeting the requirements of paragraph (C) of this rule, residential care facilities may allow residents to provide all or part of the bedroom furnishings and supplies listed under paragraphs (C)(1) to (C)(7) of this rule if the bedroom furnishings and supplies meet the requirements of paragraphs (C)(1) to (C)(7) - of this rule and there is sufficient space in the residential care facility. Residents who smoke shall provide documentation that the mattress they bring to the residential care facility is flame resistant. Residents shall be permitted to bring personal furnishings and items in addition to the bedroom furnishings and supplies listed under paragraphs (C)(1) to (C)(7) of this rule if the personal furnishings and items do not create a safety hazard or infringe upon the rights of other residents.
- (E) A residential care facility shall 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 residential care facility'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.
- (F) All residential care facilities shall have the supplies and equipment necessary to provide the services needed by the residents admitted to or retained in the facility. The residential care facility shall keep all equipment and supplies in the facility clean and usable and shall store it satisfactorily and safely when not in use.
- (G) Waste baskets or containers in common areas where burnable materials may be placed shall not be made of materials which are flammable, combustible or capable of generating quantities of smoke or toxic gases.
- (H) Each residential care facility shall provide at least one non-pay telephone to which residents shall have reasonable access at all times for making local calls. The telephone shall be provided in a location or manner which affords privacy. The residential care facility shall arrange for a method by which residents can make long-distance calls from the residential care facility at the residents' expense.

- (I) Each residential care facility also shall meet the following safety and maintenance requirements:
- (1) The residential care facility shall keep floors in good repair. Any rugs used in the facility shall be secured in a manner that does not create a safety hazard;
 - (2) The residential care facility shall keep corridors, entrances, exits, fire escape routes and outside pathways in good repair, free of obstacles, and ice and snow. Buildings that are constructed or converted for use as residential care facilities after the effective date of this rule must have accessible means of egress that open to a hard surface leading to a public way;
 - (3) Common areas and exits shall be well-lighted;
 - (4) The residential care facility shall store poisonous and hazardous materials in clearly labeled containers, away from foodstuffs and medication. Poisonous and hazardous materials shall be stored in accordance with the manufacturer's instructions and the applicable provisions of the Ohio fire code;
 - (5) If resident units have locks, the residential care facility shall have duplicate keys or a master key available and readily accessible at all times to the staff members on duty or present in the facility for use in case of emergency;
 - (6) The residential care facility shall maintain first-aid supplies in a closed but unlocked container which is easily accessible to the administrator and staff;
 - (7) The residential care facility shall maintain its buildings and grounds in a clean and orderly manner; and
 - (8) Residential care facilities shall not require residents or staff members to obtain approval from the operator, administrator or staff member prior to telephoning for assistance in the event of an emergency. Emergency telephone numbers, such as the fire and police department numbers shall be posted and made accessible to all residents and staff by complying with the following requirements:
 - (a) The residential care facility shall prominently display emergency telephone numbers at each telephone provided by the residential care facility; and
 - (b) The residential care facility shall provide each resident who has a personal telephone with emergency telephone numbers on media suitable for posting on or near the resident's personal telephone.

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- (A) For the purposes of this rule:
- (1) "Resident area" means any area within a residential care facility that is occupied at any time by a resident.
 - (2) "Temperature range" means between seventy-one degrees Fahrenheit and eighty-one degrees Fahrenheit.
- (B) Each residential care facility shall maintain the temperature and humidity in resident areas at a safe and comfortable level.
- (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 residential care facility shall 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 residential care facility, in consultation with a physician or an appropriate health care professional acting within the professional's scope of practice, shall 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 include at least the following items:
- (1) An identification of available sites within or outside the residential care facility to which residents can be relocated temporarily and of other suitable health care facilities or facilities that provide personal care services 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 facility when temperatures are outside the temperature range as defined in paragraph (A) of this rule; and
 - (3) Identification of the circumstances that require notification of the 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) of this rule, the residential care facility immediately shall evaluate the situation, monitor residents, 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 residential care facility shall 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 residential care facility shall 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 residential care facility shall ensure that all necessary repairs are completed within forty-eight hours or less. If, for reasons beyond the facility's control, repairs cannot be completed timely, the residential care facility shall take any necessary action, as specified in this paragraph, and shall provide for the repairs to be completed as soon as possible.

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Records and reports.

Each residential care facility shall maintain the following records which shall be made available for inspection at all times when requested by the director:

- (A) An individual record for each resident which shall be stored in a manner that protects and ensures confidentiality, except that information shall be immediately accessible for an emergency.
 - (1) Each resident record shall be started immediately upon admission to the residential care facility and shall include the following:
 - (a) The resident's name, previous address, date of birth, sex, race, religion; the date the resident began living at the residential care facility; the names, addresses, and telephone numbers of the resident's attending physician, nearest relative, guardian, if any, and any other individuals the resident designates to be contacted, including individuals to be notified in the event of an emergency. The residential care facility shall not coerce a resident to provide any of this information;
 - (b) Copies of the health assessments required by rule 3701-17-58 of the Administrative Code;
 - (c) Notations about incidents and adverse changes in health status required by rule 3701-17-62 of the Administrative Code;
 - (d) The medication record required by paragraph (I)(7) of rule 3701-17-59 of the Administrative Code as well as any medicare-D plan, if any, in which the resident is enrolled and receives prescription medication;
 - (e) The documentation required by paragraph (J) of rule 3701-17-60 for residents on special diets; and
 - (f) The written resident agreement required by rule 3701-17-57 of the Administrative Code;
 - (g) The documentation required by paragraphs (J)(5) of rule 3701-17-59 and (B)(4) and (C)(3) of rule 3701-17-59.1 of the Administrative Code for residents receiving skilled nursing care provided by the residential care facility;
 - (h) A copy of risk agreements entered into under paragraph (G) of rule 3701-17-57 of the Administrative Code and the signed statement required under paragraph (H) of rule 3701-17-57 of the Administrative Code, if applicable.
- (B) The incident log required by paragraph (B)(2) of rule 3701-17-62 of the Administrative Code;
- (C) Copies of all current licenses, approvals and inspections required by rules 3701-17-50 to 3701-17-68 of the Administrative Code;

- (D) A record of the name, address, working hours, medical statements, and training for staff members;
- (E) Documentation of compliance with rule 3701-17-66 of the Administrative Code;
- (F) Fire and evacuation procedures and records of fire drills required by rule 3701-17-63 of the Administrative Code;
- (G) Records of heating system checks required by paragraph (A) of rule 3701-17-65 of the Administrative Code and fire extinguishing system checks;
- (H) All records required by state and federal laws and regulations as to the purchase, dispensing, administering, and disposition of prescription medications including unused portions.
- (I) The residents' rights policies, procedures and records.
- (J) A copy of the annual report required by paragraph (I) of rule 3701-17-51 of the Administrative Code.
- (K) All other records required by Chapter 3721. of the Revised Code and rules 3701-17-50 to 3701-17-68 of the Administrative Code.
- (L) All records and reports required by Chapter 3701-13 of the Administrative Code shall be maintained and made available in accordance with that chapter.

The residential care facility shall maintain the records required by paragraphs (A) and (B) of this rule for seven years following the date of the resident's discharge except if the resident is a minor, such records shall be maintained for three years past the age of majority but not less than seven years.

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Variances.

(A) The director may grant a variance from the requirements of rules 3701-17-50 through 3701-17-68 of the Administrative Code unless required by statute if the operator or administrator shows that granting the variance will not jeopardize the health or safety of any resident and that:

- (1) Because of practical difficulties or other special conditions, strict application of the licensure requirement will cause unusual and unnecessary hardship; or
- (2) An alternative to the licensure requirement, including new concepts, methods, procedures, techniques, or the conducting of pilot projects is in the interest of better health care or management.

No variance shall be granted that will defeat the spirit and general intent of these rules or otherwise not be in the public interest.

(B) A request for a variance from the requirements of the residential care facility licensure rules shall be made in writing to the director, specifying the following:

- (1) The rule requirement for which the variance is requested;
- (2) The time period for which the variance is requested;
- (3) The specific alternative action which the residential care facility proposes;
- (4) The reasons for the request;
- (5) An explanation of the anticipated affect granting of the variance will have on residents;

The director may request additional information from the residential care facility prior to making a determination regarding the request.

(C) 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 residential care facility has failed to comply with the variance as granted;
- (3) The operator or administrator notifies the department in writing that the owner or administrator wishes to relinquish the variance; or
- (4) The variance conflicts with a statutory change thus rendering the variance invalid.

(D) The director shall notify the operator, in writing, of the director's determination regarding a variance request and of a revocation of a granted variance. The director may establish conditions that the residential care facility must meet for a variance to be operative. The director shall provide the residential care facility

with an opportunity for an informal hearing concerning the denial of a variance request or a revocation of a granted variance, if requested by the operator within thirty days of the mailing of the notice of denial or revocation, but the residential care facility shall not be entitled to a hearing under Chapter 119. of the Revised Code. If the director proposes to deny or revoke a license because the residential care facility is in violation of a rule for which a variance was denied or revoked, the director shall afford the residential care facility a hearing in accordance with Chapter 119. of the Revised Code.

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