

3701-17-08 Personnel requirements.

- (A) Each nursing home and home for the aging shall arrange for the services of an administrator who shall be present in the home to the extent necessary for effectively managing the home and assuring that needs of the residents are being met, but not less than sixteen hours during each calendar week.
- (B) Each nursing home shall employ a registered nurse who shall serve as director of nursing. The director of nursing shall be on duty five days per week, eight hours per day predominantly between the hours of six a.m. and six p.m. to direct the provision of nursing services. In the event the director of nursing is absent from the nursing home due to illness, vacation or an emergency situation, the home shall designate another registered nurse in its employ to serve as acting director of nursing. The director of nursing shall not be counted toward meeting the other nurse staffing requirements of this rule unless the home's licensed capacity is no greater than sixty beds.
- (C) Each nursing home shall have staff sufficient in number on each shift to provide care and services to meet the needs of the residents in an appropriate and timely manner and to provide a minimum daily average of two and three-fourths (2.75) hours of direct care and services per resident per day as follows:
 - (1) A minimum daily average of two (2.00) hours per resident per day to be provided by nurse aides with the ratio of nurse aides to residents not exceeding one nurse aide for every fifteen residents or major part thereof at any time. Licensed nurses may be counted toward meeting this requirement if the nurses are performing the same types of services as nurse aides and are not counted toward meeting the other nursing requirements of this paragraph;
 - (2) A minimum daily average of two-tenths (.20) of an hour per resident per day to be provided by registered nurses. A home may request a variance to use a licensed practical nurse to meet part or all of this requirement in accordance with paragraph (D) of this rule; and
 - (3) The remainder of the hours may be provided by nurses, nurse aides, activities aides, occupational therapists, physical therapists, dietitians, and social service workers who provide direct care and services to the residents.

Each nursing home shall have a registered nurse on call whenever one is not on duty in the home.

- (D) The director may grant a variance from the registered nurse requirement of paragraph (C)(2) of this rule, if the director determines that the strict application of the requirement would cause an undue hardship to the home and that granting of the variance will not defeat the spirit and general intent of this rule, adversely affect the health or safety of the residents, or otherwise not be in the public interest. A home seeking a variance under this paragraph, shall submit a request, in writing, to the director that demonstrates to the satisfaction of the director that:
 - (1) The home has made, and is continuing to make, diligent effort to recruit the required registered nurses personnel through advertising and the use of other techniques available in the area of the state in which the home is located, such

as the use of public or private employment agencies;

- (2) The home is offering the prevailing wage for registered nurses in the area of the state in which the home is located;
- (3) That the facilities and personnel policies of the home are such as to offer satisfactory working conditions for prospective employees; and
- (4) That the registered nurse requirement is an undue hardship for the home to meet and that the variance will not jeopardize the health and safety of the residents.

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

- (E) Each nursing home shall also have the following staff who are competent to perform the duties they are assigned:
- (1) Activities program staff as required by paragraph (A) of rule 3701-17-09 of the Administrative Code;
 - (2) Dietary staff as required by paragraph (K) of rule 3701-17-18 of the Administrative Code;
 - (3) Pharmacy services staff as required by paragraph (A)(1) of rule 3701-17-17 of the Administrative Code; and
 - (4) A social worker to assist the home in meeting the social service needs of the residents and the requirements of rule 3701-17-09 of the Administrative Code. For nursing homes with one hundred and twenty beds or less, this individual may be hired on a part-time or consultant basis.
- (F) In addition to complying with the requirements in this rule, each nursing home shall maintain sufficient additional staff to provide, in a timely manner, adequate services and care to meet the needs of the residents admitted to or retained in the nursing home and to properly operate the dietary, housekeeping, laundry, and nursing home maintenance facilities.
- (1) the nursing home shall determine the number and type of additional staff required based on the services needing to be performed as identified in the plans of care required by rule 3701-17-14 of the Administrative Code, and authorized scopes of practice.

- (2) The additional staff shall meet the applicable qualifications of rules 3701-17-07 and 3701-17-071 of the Administrative Code and provide services in accordance with applicable scopes of practice.
- (G) The nursing home shall establish a protocol for staff coverage that includes coverage during vacations, emergency situations, and long-term absences due to illness and unexpected absences and a contingency plan for back-up coverage.
- (H) With input from the medical director and the director of nursing, the nursing home shall adjust the staffing levels based on the needs and acuity levels of the residents, but in no event shall the staffing fail to meet the requirements of this rule.
- (I) A nursing home that is physically located in the same building or on the same lot as other licensed homes and facilities which are owned and operated by the same entity, or that provides an adult day care program in the nursing home, may use staff from the nursing home to provide services in the other licensed homes, facilities, or adult day care program or use appropriate and qualified staff from the other homes, facilities or adult day care program to meet part or all of the staffing requirements of this rule, if all of the following criteria are met:
 - (1) The nursing home at all times meets the minimal staffing levels required by this rule. No staff simultaneously assigned to the staffing schedules of the nursing home and another home, facility or an adult day program shall be counted towards meeting the staffing requirements of this rule;
 - (2) The other licensed homes and facilities at all times meet their applicable staffing level requirements. Shared nursing home staff shall not be counted towards meeting the minimum staffing requirements for the other licensed homes and facilities;
 - (3) Separate staffing schedules are maintained for the nursing home, residential care facility and adult day care program;
 - (4) The sharing of staff does not adversely affect the quality and timeliness of meeting the care needs of the nursing home and residential care facility residents and the participants of the adult day care program;
 - (5) The nursing home, residential care facility and adult day care program are within two minutes or less response time from each other; and
 - (6) The monitoring of the call signal systems in the nursing home and residential care facility are not disrupted and the use of call signal systems is not limited to emergency use only.
- (J) Each nursing home shall maintain records necessary for the director to ascertain compliance with the requirements of this rule.
- (K) Nothing in this rule shall be construed as authorizing an unlicensed individual to provide services that require the individual to be licensed under Title 47 of the Revised Code or a health care professional to provide services outside the professional's licensed scope of practice.

3701-17-08

4

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Certified by:

/S/

Jodi Govern, Secretary
Public Health Council

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Date

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