



Ohio Revised Code

Section 3721.02 Procedures for inspecting and licensing homes - fees.

Effective: September 30, 2021

Legislation: House Bill 110

(A) As used in this section, "residential facility" means a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B)(1) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(2)(a) Except as provided in division (B)(2)(b) of this section, prior to the issuance of a license, each home shall be inspected by the director and the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal.

(b) The inspections set forth in division (B)(2)(a) of this section are not required prior to the issuance of a license if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer.

(3) After issuance of a license by the director, each home shall be inspected as follows:

(a) By the director at least once every fifteen months, except that a home that is a residential care facility, or part of a home for the aging that is licensed as a residential care facility, may, at the discretion of the director, be inspected at least once every thirty months if all of the following apply:



(i) During the two most recent consecutive inspections that occurred at least once every fifteen months, there were no substantiated violations against the residential care facility;

(ii) During the time period of the inspections referred to in division (B)(4)(a) of this section, there were no substantiated violations against the residential care facility from any other inspections or from any investigations of complaints;

(iii) The residential care facility does not have any outstanding violations from any previous inspections or investigations.

(b) By the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal at least once every fifteen months.

(4) A nursing home does not need to be inspected before the director increases the nursing home's licensed capacity if the beds being added to the nursing home are placed in resident rooms that were inspected, as part of the most recent previous inspection of the nursing home, for the same number of residents proposed to be placed in a room after the capacity increase.

(5)(a) The inspection procedures established under division (B) of this section shall include a process for conducting expedited licensing inspections. An expedited licensing inspection may be requested by an applicant seeking a license for a new home or, in the case of an existing home, an applicant seeking approval to increase or decrease the home's licensed capacity or to make any other change for which the director requires a licensing inspection to be conducted.

If an applicant submits a complete request for an expedited licensing inspection and the request is submitted in a manner and form approved by the director, the director shall commence the inspection of the home not later than ten business days after receiving the complete request.

Any rules adopted by the director pursuant to section 3721.04 of the Revised Code to implement the requirements described in division (B)(5)(a) of this section are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(b) The director may charge a fee for an expedited licensing inspection that is adequate to cover the



expense of expediting the inspection. The fee shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and used solely for expediting inspections.

(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as a residential facility.

(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is 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 home is both a nursing home and a residential facility. In that 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 an residential facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or 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 home, 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 home 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 home 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 this division.

(E)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:



(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(F)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in either of the following:

(a) Any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code;

(b) An advertisement, unless the advertisement includes all of the following:

(i) The date the inspection or investigation was conducted;

(ii) A statement that the director of health inspects all homes at least once every fifteen months or, if applicable under this section, at least once every thirty months;

(iii) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding



or deficiency was substantially corrected;

(iv) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the inspection or investigation;

(v) The average number of findings and deficiencies cited in a statement of deficiencies on the basis of an inspection or investigation conducted under this section during the same calendar year as the inspection or investigation used in the advertisement;

(vi) A statement that the advertisement is neither authorized nor endorsed by the department of health or any other government agency.

(2) Nothing in division (F)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.