



## Ohio Revised Code

### Section 5124.70 Maximum number of residents per sleeping room.

Effective: October 3, 2023

Legislation: House Bill 33

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(A) This section does not apply to any of the following:

(1) An ICF/IID to which both of the following apply:

(a) On or before January 1, 2015, the ICF/IID became a downsized ICF/IID or partially converted ICF/IID.

(b) On January 1, 2015, the ICF/IID's medicaid-certified capacity was at least twenty per cent less than the greatest medicaid-certified capacity it had before it became a downsized ICF/IID or partially converted ICF/IID.

(2) An ICF/IID's sleeping room in which more than two residents reside if both of the following apply:

(a) All of the residents of the sleeping room are under twenty-one years of age.

(b) The parents or guardians of all of the residents of the sleeping room consent to the residents residing in a sleeping room with more than two residents.

(3) An ICF/IID to which any of the following apply on the effective date of this amendment :

(a) The ICF/IID has a medicaid-certified capacity between sixty and seventy beds and is located in a county with a population between forty thousand five hundred and forty-one thousand according to the 2020 federal decennial census.

(b) The ICF/IID has a medicaid-certified capacity between ninety and one hundred beds and is located in a county with a population between two hundred forty-two thousand and two hundred forty-three thousand according to the 2020 federal decennial census.



(c) The ICF/IID has a medicaid-certified capacity between fifty-five and sixty beds and is located in a county with a population between four hundred thousand and five hundred thousand according to the 2020 federal decennial census.

(d) The ICF/IID has a medicaid-certified capacity between ninety and one hundred beds and is located in a county with a population between one million three hundred thousand and one million four hundred thousand according to the 2020 federal decennial census.

(e) The ICF/IID has a medicaid-certified capacity between one hundred twenty and one hundred thirty beds and is located in a county with a population between one hundred sixty thousand and one hundred sixty-two thousand according to the 2020 federal decennial census.

(B) Except as provided in divisions (G) and (H) of this section, an ICF/IID provider shall not permit more than two residents to reside in the same sleeping room.

(C)(1) If, on September 29, 2015, more than two residents of an ICF/IID reside in the same sleeping room, the ICF/IID provider shall submit to the department of developmental disabilities for its review a plan to come into compliance with division (B) of this section. The provider shall submit the plan not later than December 31, 2015.

(2) The plan shall include all of the following:

(a) The date by which not more than two residents will reside in the same sleeping room, which shall be not later than June 30, 2025;

(b) Detailed descriptions of the actions the ICF/IID provider will take to come into compliance with division (B) of this section, which shall include becoming either a downsized ICF/IID or a partially converted ICF/IID.

(c) The ICF/IID's projected medicaid-certified capacity for each year covered by the plan, which must demonstrate that the provider will make regular progress toward coming into compliance with division (B) of this section;



(d) A discharge planning process that includes providing information to residents regarding home and community-based services;

(e) Additional interim steps the provider will take to demonstrate that the provider is making regular progress toward coming into compliance with division (B) of this section.

(3) The plan shall not include the creation of a new ICF/IID that has a medicaid-certified capacity that is greater than six unless the department determines that a new ICF/IID would need a larger medicaid-certified capacity to be financially viable. If the department determines that a new ICF/IID would need a larger medicaid-certified capacity to be financially viable, the plan may include the creation of a new ICF/IID that has a medicaid-certified capacity that is greater than six but not greater than eight.

(D) The department shall review each plan submitted under division (C) of this section and decide whether to approve the plan. In making this decision, the department shall consider both of the following:

(1) Whether the plan conforms to the requirements of division (C) of this section;

(2) The feasibility of completing the implementation as described in the plan.

(E) If the department approves an ICF/IID provider's plan under division (D) of this section, the provider shall submit to the department annual reports regarding the plan's implementation.

(F) The department may issue a written order to an ICF/IID provider that suspends new admissions to the ICF/IID if both of the following apply:

(1) The department has approved the provider's plan under division (D) of this section.

(2) The provider fails to do either of the following:

(a) Submit to the department an annual report required by division (E) of this section;



(b) Meet, to the department's satisfaction, the projected medicaid-certified capacity for the ICF/IID for a year as specified in the plan and the failure is due to factors within the provider's control.

(G)(1) Before January 1, 2016, an ICF/IID provider may permit more than two residents to reside in the same sleeping room if more than two residents resided in the same sleeping room on September 29, 2015.

(2) On and after January 1, 2016, an ICF/IID provider may permit more than two residents to reside in the same sleeping room only if all of the following apply:

(a) More than two residents resided in the same sleeping room on September 29, 2015.

(b) The provider has submitted a plan in accordance with division (C) of this section.

(c) Either of the following applies:

(i) The department has approved and the provider complies with the plan.

(ii) The department has not decided whether to approve the plan.

(H) The department shall waive application of division (B) of this section for an ICF/IID's sleeping room in which more than two residents reside on June 30, 2025, if both of the following apply:

(1) The same residents have continuously resided in the sleeping room since September 29, 2015;

(2) The department determines that at least three of these residents want to continue to reside together in the sleeping room.