



Ohio Administrative Code Rule 3701-16-05 Personnel requirements.

Effective: March 1, 2018

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

(1) Meet the applicable requirements of rule 3701-16-06 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 (G) of rule 3701-16-08 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 (H) of rule 3701-16-06 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 3701-16-06 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) of this rule;

(2) Seventeen to thirty-five beds shall not be counted toward meeting the staffing requirements of paragraph (C) of this rule 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) 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 3701-16-06 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 resident call system requirements of paragraph (B)(5) of rule 3701-16-14 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 3701-16-06 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 3701-16-08 of the Administrative Code and consistent with the resident agreement required under rule 3701-16-07 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;



(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) of rule 3701-16-13 of the Administrative Code shall be present in the facility at all times; and

(d) Provide or arrange for resident activities required under rule 3701-16-11 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 3701-16-06 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 (G) of rule 3701-16-08 of the Administrative Code.

(5) Unless the resident's needs are being met by a private psychologist or physician, each residential care facility that admits or retains residents with a diagnosis of late-stage cognitive impairment with significant ongoing daily living assistance needs, cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both, or serious mental illness, shall have a psychologist or physician with experience in the diagnosis and treatment of the applicable condition or conditions, 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 registered nurse 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 3701-16-09 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 therapeutic diets shall provide or arrange for a dietitian and comply with the applicable requirements of rule 3701-16-10 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 3701-16-09 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) of rule 3701-16-09.1 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, or that provides an adult day care program, or both, which are owned and operated by the same entity may use staff from the residential care facility to provide services in the nursing home or adult day care program, or use appropriate and qualified staff from the nursing home or the 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 residential care facility at all times meets the minimal staffing levels required by paragraph (C) 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, nursing home, and adult day care program are maintained;

(4) The residential care facility has the resident call systems required by paragraph (B)(5) of rule 3701-16-14 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 resident call systems in the residential care facility and nursing home is not disrupted. The residential care facility shall not limit the use of the resident call 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.