



Ohio Administrative Code Rule 3701-16-09.1 Skilled nursing care.

Effective: July 12, 2024

(A) Except as provided for in division (D) of section 3721.011 of the Revised Code, a residential care facility may admit or retain individuals who are in need of 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. 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 is obligated to 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 does not count 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 are not to be counted;

(c) Only days on which skilled nursing care is performed are to be counted toward the allowable one hundred and twenty days; and

(d) Medication administration, supervision of therapeutic diets or application of dressings will be counted toward the allowable one hundred and twenty days, if the residential care facility does not provide for these services, pursuant to rule 3701-16-09 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 is in need of more skilled nursing care than permitted under this paragraph, the residential care facility is obligated to transfer or discharge the resident in accordance with section 3721.16 of the Revised Code and Chapter 3701-61 of the Administrative Code.

(B) Each residential care facility that provides skilled nursing care using staff members is obligated to:

(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) Except for residents receiving medication administration, supervision of special diets, the application of dressings, or skilled nursing care permitted by paragraph (D) of this rule, evaluate each resident receiving 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 is obligated to 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 is obligated to 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 are obligated to be signed and dated by the licensed health professional who gave the order within fourteen days after the order was given;

(a) Telephone orders are not allowed to 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 their 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 obligated by rule 3701-16-08 of the Administrative Code and consistent with the resident agreement obligated by rule 3701-16-07 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.

(C) In addition to paragraphs (A) and (B) of this rule, each residential care facility that provides enteral tube feedings on a part-time intermittent basis is obligated:

(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 are to 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 may admit or retain an individual who is in need of skilled nursing care for more than one hundred twenty days in any twelve-month period only if:

(1) The facility has entered into a written agreement with each of the following:

(a) The individual, the individual's sponsor, or both;

(b) The individual's personal physician or other licensed health professional acting within their applicable scope of practice, unless either of the following apply:

(i) If the provision of the skilled nursing care is not overseen by the individual's personal physician, the provider of the skilled nursing care may enter into the agreement; or

(ii) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code may enter into the agreement.

(2) The written agreement obligated by this paragraph includes a statement signed by all parties acknowledging that they understand the agreement and that the individual's needs can be met at the facility. The agreement is not considered complete without this signed statement and includes all of the following provisions:

(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility. This determination is obligated to be made by the residential care facility, the individual's attending physician, and, if applicable, the provider of the skilled nursing care;

(b) That the individual will be retained in the facility only if periodic re-determinations are made that the individual's needs can be met at the facility;



(c) That the re-determinations will be made according to a schedule specified in the agreement and as the resident's condition necessitates , but no less frequently than every thirty days, except for hospice patients whose re-determinations are to be made be no less frequently than every fifteen days;

(d) Unless the individual is a hospice patient, the individual's personal physician has determined that the skilled nursing care the resident or prospective resident needs is routine. For purposes of this rule, "routine" does not include those conditions listed in paragraph (B) of rule 3701-16-07 of the Administrative Code; and

(e) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the individual's needs.