



Ohio Administrative Code

Rule 3701-16-18 Variances.

Effective: March 1, 2018

(A) The director may grant a variance from the requirements of rules 3701-16-01 to 3701-16-18 of the Administrative Code unless required by statute if the operator or administrator shows that granting the variance will not jeopardize the health or safety of any resident and that:

- (1) Because of practical difficulties or other special conditions, strict application of the licensure requirement will cause unusual and unnecessary hardship; or
- (2) An alternative to the licensure requirement, including new concepts, methods, procedures, techniques, or the conducting of pilot projects is in the interest of better health care or management.

No variance shall be granted that will defeat the spirit and general intent of these rules or otherwise not be in the public interest.

(B) A request for a variance from the requirements of the residential care facility licensure rules shall be made in writing to the director, specifying the following:

- (1) The rule requirement for which the variance is requested;
- (2) The time period for which the variance is requested;
- (3) The specific alternative action which the residential care facility proposes;
- (4) The reasons for the request; and
- (5) An explanation of the anticipated affect granting of the variance will have on residents;

The director may request additional information from the residential care facility prior to making a determination regarding the request.



(C) The director shall notify the operator, in writing, of the director's determination regarding a variance request. The director may establish conditions that the residential care facility must meet for a variance to be operative, a time frame for which the variance will be effective, or both.

(D) The director shall notify the operator, in writing, of the director's determination to revoke a granted variance. The director may revoke a variance if the director determines that:

(1) The variance is adversely affecting the health and safety of the residents;

(2) The residential care facility has failed to comply with the variance as granted;

(3) The operator or administrator notified the department that the owner or administrator wishes to relinquish the variance; or

(4) The variance conflicts with a statutory change thus rendering the variance invalid.

(E) The refusal of the director to grant or revoke a variance or waiver, in whole or in part, shall be final and shall not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code.