

3701-17-03

License fee; application; issuance; revocation.

- (A) The operator of a nursing home shall submit an initial application and pay the application fee specified in section 3721.02 of the Revised Code. The initial application and the application fee required under this paragraph shall be submitted to the director and the fee shall be made payable to the "treasurer, state of Ohio" in the form of a check or money order. The department shall deposit the fee in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code, and the fee shall not be refunded.
- (B) Every applicant for a license to operate a nursing home shall truthfully and fully complete and submit an application to the director not less than sixty days before the proposed opening of the nursing home. Such application shall be made on a form prescribed and furnished by the director.
- (C) The initial application for a license to operate a nursing home shall be accompanied by:
- (1) A statement by the applicant of the status of the proposed nursing home under any applicable zoning ordinances or rules, or a statement by the applicant that there is no zoning authority where the proposed home is to be located.
 - (2) A statement of financial solvency at the time of initial application, on a form prescribed and furnished by the director, showing that the applicant has the financial ability to staff, equip, and operate the nursing home in accordance with Chapter 3721. of the Revised Code, and rules 3701-17-01 to 3701-17-26 of the Administrative Code, and that the applicant has sufficient capital or financial reserve to cover not less than four months' operation.
 - (3) A statement containing the following information:
 - (a) If the operator is an individual and owner of the business, the individual's name, address, and telephone number. If the operator of the business is owned by an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity;
 - (b) If the operator does not own the building or buildings or if the operator owns only part of the building or buildings in which the nursing home is housed, the name of each person who has an ownership interest of five per cent or more in the buildings;

- (c) If the operator does not own the legal rights associated with the ownership and operation of the nursing home beds, the name of each person who has an ownership interest of five per cent or more in the nursing home beds;
 - (d) The name and address of any nursing home and any facility described in divisions (A)(1)(a) and (A)(1)(c) of section 3721.01 of the Revised Code in which the operator or administrator, or both, have an ownership interest of five per cent or more or with which the operator or administrator have been affiliated with through ownership or employment in the five years prior to the date of the application;
 - (e) The name, business address and telephone number of the administrator of the nursing home, if different from the operator;
 - (f) The name, business address and telephone number of any management firm or business employed to manage the nursing home;
 - (g) The name, business address, and telephone number of the statutory agent of the operator; and
 - (h) The name, business address, and telephone number of the statutory agent of the owner of the legal rights associated with the ownership and operation of the nursing home beds.
- (4) Copies of the certificate of use required by paragraph (A) of rule 3701-17-22 of the Administrative Code.

The operator or administrator shall notify the director in writing of any changes in the information contained in this paragraph. The operator or administrator shall provide this notification no later than ten days after the change occurs.

- (D) The operator of a nursing home shall truthfully and fully submit a license renewal application and pay the renewal fee specified in section 3721.02 of the Revised Code. The renewal application and the renewal fee required under this paragraph shall be submitted using an electronic system prescribed by the director. The department shall deposit the fee in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code, and the fee shall not be refunded.
- (E) The renewal application shall:

- (1) Include an update of the information required under paragraphs (C)(2) and (C)(3) of this rule; and
- (2) Provide information the director may require to assess whether the operator has violated section 3721.07 of the Revised Code.

The operator or administrator shall notify the director in writing of any changes in the information contained in this paragraph. The operator or administrator shall provide this notification no later than ten days after the change occurs.

- (F) The director may request additional information at any time which the director determines to be necessary to assess compliance with the applicable criteria, standards, and requirements established by Chapter 3721. of the Revised Code and rules 3701-17-01 to 3701-17-26 of the Administrative Code. The applicant shall truthfully respond and submit any additional information requested by the director within sixty days of the director's request unless the director specifies otherwise.
- (G) The license to operate a nursing home shall be issued by the director in accordance with Chapter 3721. of the Revised Code, and shall remain in effect until revoked by the director or voided at the request of the applicant; provided, the annual renewal fee is paid during the month of January of each year. Any nursing home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the nursing home's license.
- (H) A license to operate a nursing home is not assignable or transferable and is valid only for the operator and premises named in the application except as otherwise permitted under section 3721.023 of the Revised Code. If ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under section 3721.08 of the Revised Code prior to the effective date of the assignment or transfer.
- (I) An operator who operates one or more nursing homes in more than one building shall obtain a separate license for each building except if such buildings are on the same lot and constitute a single nursing home, such nursing home may be operated under a single license. However, no nursing home shall be licensed in the same building as another nursing home.

- (J) The license shall be posted in a conspicuous place in the nursing home.
- (K) The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded pursuant to Chapter 119. of the Revised Code, that any of the following apply to a person licensed under section 3721.07 of the Revised Code:
- (1) Has violated any of the provisions of Chapter 3721. of the Revised Code or of rules 3701-17-01 to 3701-17-26 of the Administrative Code;
 - (2) Has violated any order issued by the director;
 - (3) Is not, or any of its principals are not suitable, morally or financially, to operate such an institution;
 - (4) Is not furnishing humane, kind, and adequate treatment and care; or
 - (5) Has had a long-standing pattern of violations of Chapter 3721. of the Revised Code, of rules 3701-17-01 to 3701-17-26 of the Administrative Code, of Chapter 3701-13 of the Administrative Code, or of Chapter 3701-60 of the Administrative Code that has caused physical, emotional, mental, or psychosocial harm to one or more residents.
- (L) The director may issue an order denying a license in the event the director finds after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, one or more of the following conditions exist:
- (1) The applicant has been convicted of a felony or a crime involving moral turpitude;
 - (2) The applicant is violating any of the rules made by the ~~public health council~~ director or any order issued by the director of health;
 - (3) The applicant has had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code, other than division (B)(5) of section 3721.03 of the Revised Code, because of any act or omission that jeopardized a resident's health, welfare, or safety;
 - (4) The buildings in which the home is housed have not been approved by the state fire marshal or a township, municipal, or other legally constituted fire

department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code;

- (5) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are not suitable financially and morally to operate a home;
 - (6) The applicant is not equipped to furnish humane, kind, and adequate treatment and care;
 - (7) The home maintains or contains:
 - (a) Facilities for the performance of major surgical procedures;
 - (b) Facilities for providing therapeutic radiation;
 - (c) An emergency ward;
 - (d) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state; or
 - (e) Facilities for radiological examinations unless such examinations are performed only by a person licensed to practice medicine, surgery, or dentistry in this state;
 - (8) The home accepts or treats outpatients, except upon the written orders of a physician licensed in this state, maternity cases, boarding children, or houses transient guests, other than participants in an adult day-care program, for twenty-four hours or less; or
 - (9) The home is not in compliance with sections 3721.28 and 3721.29 of the Revised Code.
- (M) Upon the issuance of any order of revocation or denial, the person whose license is revoked or denied may appeal in accordance with Chapter 119. of the Revised Code.
- (N) Once the director notifies a person licensed to operate a home that the license may be revoked or issues any order under section 3721.03 of the Revised Code or under this rule, the person shall not assign or transfer to another person or entity the right

to operate that home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person that the prohibition has been lifted.

- (1) If a license is revoked under this rule section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.
 - (2) On revocation of a license, the former license holder shall take all necessary steps to cease operation of the home.
- (O) If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked for any reason other than nonpayment of the license renewal fee or late fees may not apply for a new license under Chapter 3721. of the Revised Code until a period of one year following the date of revocation has elapsed.
- (P) When closing a home, the operator shall provide the director written notification of closure at least ninety days prior to the proposed closing date. This notice shall include:
- (1) An address where the operator may be reached after the closing of the home;
 - (2) A plan for the transfer and adequate relocation of all residents; and
 - (3) Assurances that the residents will be transferred to the most integrated and appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs, choice, and best interests of each resident.
- (Q) While providing a written notification of closure under paragraph (O) of this rule, the operator shall, in accordance with Chapter 3701-61 of the Administrative Code, also provide written notice of the proposed date of closing of the home to its residents and their sponsors or legal representatives and the regional long-term care ombudsperson program, designated under section 173.16 of the Revised Code, serving the area where the home is located.
- (R) The nursing home shall include in all official correspondence with the department pertaining to the home, its name, address and license number as it appears on the nursing home license.

Effective:

Five Year Review (FYR) Dates: 08/08/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3721.04
Rule Amplifies: 3721.02, 3721.03, 3721.07, 3721.08
Prior Effective Dates: 5/2/1966, 7/1/73, 12/21/92, 4/1/2012