

TO BE RESCINDED

3701-17-59 **Personal care services; medication administration; resident medications; application of dressings; supervision of special diets.**

(A) For the purposes of this rule;

- (1) Personal care services or skilled nursing care shall be considered to be provided by a residential care facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor his or her sponsor is a party.
- (2) A residential care facility may provide the skilled nursing care authorized by paragraphs (J) and (K) of this rule through the following arrangements as long as the residential care facility complies with the applicable provisions of this rule:
 - (a) Qualified staff members of the residential care facility;
 - (b) Through agreements or contractual arrangements, including but not limited to, contracts with a home health agency certified under Title XVIII of "the Social Security Act", 42 U.S.C.A. 301, as amended (1981), or a licensed hospice care program, licensed under Chapter 3712. of the Revised Code.

(B) Each residential care facility shall:

- (1) Specify in its policies and the resident agreements, required by rule 3701-17-57 of the Administrative Code, the extent and types of personal care services it provides; and
- (2) Provide personal care services to its residents who require those services, unless the resident and the facility have entered into a risk agreement under rule 3701-17-57 of the Administrative Code or the resident has refused services, and may provide personal care services to other residents upon request.

Nothing in this paragraph shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance unless requested.

(C) If a resident requires certain personal care services that the residential care facility does not offer:

- (1) The facility shall comply with paragraph (H) of rule 3701-17-58 of the Administrative Code; and
 - (a) The facility or the resident shall arrange for the services to be provided; or
 - (b) The facility shall transfer the resident to an appropriate setting or discharge the resident in accordance with section 3721.16 of the Revised Code and Chapter 3701-61 of the Administrative Code; or
 - (2) The facility and the resident may enter into a risk agreement in accordance with paragraphs (F) and (G) of rule 3701-17-57 of the Administrative Code, if the facility has a policy of entering into such agreements.
- (D) Each residential care facility shall ensure that personal care services are provided to residents:
- (1) In accordance with acceptable standards of care;
 - (2) By staff members meeting the training requirements of rule 3701-17-55 of the Administrative Code; and
 - (3) That meet the needs of residents as determined in the resident assessments required under rule 3701-17-58 of the Administrative Code and consistent with the resident agreements under rule 3701-17-57 of the Administrative Code.
- (E) A residential care facility may provide for the administration of medication to residents in accordance with division (B) of section 3721.011 of the Revised Code and this rule.
- (1) All medication taken by residents of residential care facilities shall be self-administered, and members of the staff of a residential care facility shall not administer medication to residents, except that medication may be administered in accordance with division (B) of section 3721.011 of the Revised Code and paragraphs (G) and (H) of this rule.
 - (2) A residential care facility may admit or retain an individual requiring medication only if the individual is capable of taking his or her own medication and biologicals, as determined in writing by the person's attending physician or other licensed healthcare professional working within their scope of practice, or if the facility provides for the administration of medication by:
 - (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;
or
 - (c) A member of the staff of the residential care facility who is qualified to perform medication administration.
- (F) Staff members may assist with self-administration of medication by doing any of the following once they have received training in providing the services, as required by paragraph (E) of rule 3701-17-55 of the Administrative Code:
- (1) Remind a resident when to take medication, and watch to ensure that the resident follows the directions on the container;
 - (2) Assist a resident in self-administration of medication by taking the medication from the locked area, where it is stored and handing it to the resident. The staff member shall check the name on the prescription label and verify that the resident's name on the prescription label corresponds to the resident requesting the medication before handing it to the resident. The staff member may read the label and directions on the medication container to the resident upon request. The staff member also may remind the resident and any other individual designated by the resident when prescribed medication needs to be refilled. Staff members shall not assist a resident with self-administration of a prescription medication that belongs to another resident. If the resident is physically unable to open a container, a staff member may open the container for the resident; and
 - (3) Assist a physically impaired but mentally alert resident such as, but not limited to, a resident with arthritis, cerebral palsy, or Parkinson's disease, upon that resident's request, in removing oral or topical medication from containers and in consuming or applying the medication upon request by or with the consent of the resident. If the resident is physically unable to place a dose of medicine to his or her mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident. As used in this paragraph, "topical medication" means:
 - (a) Eye, nose, or ear drops excluding irrigations; and
 - (b) Medication used in the treatment of a skin condition or minor abrasion, excluding debriding agents.
 - (4) Assist a resident with organizing the resident's medications in a weekly pill organizer if the resident is able to differentiate between pills and actively

participates in the organization. Nothing in this rule shall be construed to allow staff members to fill a weekly pill organizer for a resident.

(G) Medication shall be administered in accordance with accepted standards of practice to a resident in a residential care facility only by the following persons authorized by law to administer medication:

- (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.

(H) Residential care facilities that administer medication shall comply with all of the following:

- (1) No medication shall be given to any resident unless ordered by a physician or individual authorized under state law to prescribe medications. Ordered medications shall be administered unless the resident refuses or the resident exhibits symptoms that contraindicate medication administration. If a medication is not administered, the staff member responsible for administering the medication shall document in the resident's record why the medication was not administered. Telephone orders shall not be accepted by a person other than a licensed nurse, another physician or a pharmacist except that a licensed health professional may receive, document and date medication orders concerning his or her specific discipline, to the extent permitted by applicable licensing laws. If orders are given by telephone, they shall be recorded with the prescriber's name and the date, and the order signed by the person who accepted the order. All telephone orders shall be signed by the physician who gave the order or other licensed health professional with prescriptive authority working under the supervision of or in collaboration with the physician within fourteen days after the order was given. The residential care facility may accept facsimile and electronic documentation of orders in accordance with paragraph (B)(4) of rule 3701-17-59.1 of the Administrative Code;
- (2) All medications shall be given only to the individual resident for whom they are prescribed, given in accordance with the directions on the prescription or

the physician's or other authorized prescriber's orders, and recorded on the resident's medication record required by paragraph (I)(7) of this rule;

- (3) The person who administers the medication shall observe the resident for adverse effects, contraindications, and medication effectiveness. Such person shall notify the resident's attending physician or other licensed healthcare professional working within their scope of practice, of any undesirable effects and document these effects and the date and time of such notification in the resident's medication record;
 - (4) The residential care facility may administer drugs bearing the American hospital formulary service therapeutic class 4:00, 28:16:08, 28:24:08, or 28:24:92 only when necessary to treat a resident's medical condition and to assist the resident to attain his or her highest practicable physical, mental, and psychosocial well-being. Drugs used for this purpose are not considered chemical restraints as defined in paragraph (L) of this rule. Drugs in these classifications shall be administered only with the authorization of the attending physician, after personal examination of the resident and documentation of the medical condition being treated and reasons for use of the drug and
 - (5) Ohio board of pharmacy and United States drug enforcement administration regulations.
- (I) Residential care facilities shall handle residents' medication in accordance with the following requirements:
- (1) The residential care facility shall not stock or dispense medicines or drugs which may be sold only by prescription unless the facility has in its employ, on either a full-time or part-time supervisory and consulting basis, a pharmacist registered under Chapter 4729. of the Revised Code, who will be in complete control of such stock and the dispensing thereof.
 - (2) The residential care facility shall keep all prescription medications in locked storage areas, including drugs requiring refrigeration, except medications of residents living in individual units who self-administer their own medications may be stored in the resident's unit if the resident and residential care facility take reasonable precautions to prohibit access to the medications by other residents.
 - (3) The residential care facility shall assure that the labeling of prescription medicine and drugs meet the following criteria:

- (a) Every container of medicine and drugs prescribed for a resident for self-administration or assistance by non-licensed health care personnel, shall be clearly labeled with the resident's name, the proprietary or generic name of the medication dispensed and its strength, the name and address of the dispensing pharmacy, the name or initials of the dispensing pharmacist, the prescription number, the date dispensed, the name of the prescribing physician or individual authorized under state law to prescribe medications, and the instructions for use including any cautions which may be required by federal or state law. Containers too small to bear a complete prescription label shall be labeled with at least the prescription number and the dispensing date and shall be dispensed in a container bearing a complete prescription label.
- (b) Medicines and drugs dispensed by a health care facility pharmacy for administration by a licensed nurse or physician to residents whereby the medicines and drugs are not in the possession of the resident prior to administration shall be clearly labeled in accordance with rule 4729-17-10 of the Administrative Code.
- (c) The residential care facility shall not repackage or relabel resident medications.
- (d) Over-the-counter medications kept by residents capable of self-administration do not need to meet the requirements of this rule.
- (e) Over-the-counter medications that are either administered by an individual acting within their scope of practice and based on a prescriber's order, or given to residents capable of self-administration of medication, shall contain a United States food and drug administration label indicating, in part, the medications:
 - (i) Name;
 - (ii) Strength;
 - (iii) Quantity;
 - (iv) Accessory instructions;
 - (v) Lot number; and
 - (vi) Expiration date.

- (4) The residential care facility shall send a resident's medication with him or her upon permanent transfer or discharge or destroy or dispose them with the consent of the resident in accordance with any applicable state or federal laws and regulations.
 - (5) If controlled substances are used, controlled substances shall be ordered, dispensed, administered, and disposed of in accordance with state and federal laws and regulations.
 - (6) Each residential care facility shall keep a written list of all medications prescribed for each resident and shall make a good-faith effort to keep the list current.
 - (7) Each residential care facility shall maintain an individual medication record for each resident to whom the residential care facility administers medications in which:
 - (a) Medication orders, including telephone, electronic, and facsimile orders, are recorded and signed by the prescriber; and
 - (b) All medications are recorded as given, documenting the name of the medication, date and time given, route of administration, and signed by the individual administering the medication.
- (J) Each residential care facility that provides for the application of dressings in accordance with division (A) of section 3721.011 of the Revised Code shall:
- (1) Establish in writing the services pertaining to the application of dressings that are routinely managed by the facility. The determination of the type of applications of dressings that are managed by the facility shall be based on staff education, staff competence, the amount of staff experience with the listed types of applications of dressings, and support services available in the facility;
 - (2) Develop and follow policies and procedures which assure that the application of dressings are provided in accordance with acceptable standards of practice;
 - (3) Ensure that the application of dressings are provided only by individuals authorized under state law to provide the application of the dressing. Skilled nursing care may be delegated in accordance with Chapter 4723-13 of the Administrative Code;
 - (4) Evaluate each resident 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 shall be performed by the appropriate health care professional and documented in the resident's record;

- (5) Document all applications of dressings that are provided by the residential care facility in the resident's record. Such documentation shall include, but not be limited to, treatment and medication orders issued by appropriate licensed health care professionals when needed to authorize provision of a service and nurse's notes indicating the nature of the service provided and the resident's status. The residential care facility may accept facsimile and electronic orders in accordance with paragraph (B)(4) of rule 3701-17-59.1 of the Administrative Code; and
 - (6) Ensure that a nurse coordinates the overall nursing care of each resident who receives applications of dressings.
- (K) Each residential care facility that provides supervision of special diets shall comply with the applicable provisions of rule 3701-17-60 of the Administrative Code. The residential care facility may accept facsimile and electronic documentation of special diet orders in accordance with paragraph (B)(4) of rule 3701-17-59.1 of the Administrative Code;
- (L) The residential care facility shall not physically, chemically or through isolation restrain residents.
- (1) For the purposes of this paragraph:
 - (a) "Physical restraint" means, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, a geriatric chair, or a locked room door;
 - (b) "Chemical restraint" means any medication bearing the American hospital formulary service therapeutic class 4:00, 28:16:08, 28:24:08, or 28:24:92 that alters the functioning of the central nervous system in a manner that limits physical and cognitive functioning to the degree that the resident cannot attain his or her highest practicable physical, mental, and psychosocial well-being; and
 - (c) "Freedom of movement" means the ability of the resident to move around within the context of the resident's functional capacity as assessed by the facility.
 - (2) A residential care facility's use of the following items for the purposes stated in this paragraph shall not be construed as physically or chemically restraining a resident or subjecting a resident to prolonged isolation:

- (a) Devices that assist a resident in the improvement of the resident's mental and physical functional status and that do not restrict freedom of movement or normal access to one's body;
- (b) Medications that are standard treatment or a documented exception to standard treatment for the resident's medical or psychiatric condition which assist a resident in attaining or maintaining the resident's highest practicable physical, mental, and psycho-social well-being;
- (c) Residency in a secured special care unit that restricts a resident's freedom of movement throughout the facility if;
 - (i) Care and services are provided in accordance with each resident's individual needs and preferences, not for staff convenience;
 - (ii) The need for continued residency in the secured special care unit is reviewed during each periodic assessment required by rule 3701-17-58 of the Administrative Code;
 - (iii) The secured special care unit meets the requirements of the state building and fire codes; and
 - (iv) Residency on the secured special care unit is not based solely on the resident's diagnosis.
- (d) Notwithstanding paragraph (L)(2)(c) of this rule, a resident may choose to reside in the secured special care unit based upon his or her specific circumstances, such as if his or her spouse is a resident of the secured special care unit, or if the only room available in the facility is on the secured special care unit. A resident who chooses to reside in the secured special care unit must be able to enter and exit the unit without assistance.

Effective: 3/1/2018

Five Year Review (FYR) Dates: 10/19/2017

CERTIFIED ELECTRONICALLY

Certification

01/04/2018

Date

Promulgated Under: 119.03

Statutory Authority: 3721.04

Rule Amplifies: 3721.01, 3721.011

Prior Effective Dates: 12/21/1992, 09/29/1996, 06/21/1997, 12/01/2001,
04/01/2007, 01/01/2013