

## TO BE RESCINDED

5122-33-17

**Personal care services; resident medications; home health care.**

- (A) For the purposes of this rule, personal care services or skilled nursing care shall be considered to be provided by a 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.
- (B) An ACF shall provide personal care services to residents who require those services and may provide personal care services to other residents upon request. If a resident requires certain personal care services that the facility does not offer, the facility either shall arrange for the services to be provided or shall transfer the resident to an appropriate setting in accordance with section 5119.83 of the Revised Code and rule 5122-33-24 of the Administrative Code. Personal care services include, but are not limited to, the following:
- (1) Assistance with walking and moving, dressing, grooming, toileting, oral hygiene, hair care, dressing, eating, and nail care;
  - (2) Assistance with self-administration of medication, in accordance with section 5119.701 of the Revised Code and paragraph (C) of this rule; and
  - (3) Preparation of special diets, other than complex therapeutic diets, for residents who require them, pursuant to the instructions of a physician or a licensed dietitian and in accordance with paragraph (B) of rule 5122-33-20 of the Administrative Code.
  - (4) 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.
- (C) All medication taken by residents of an ACF shall be self-administered, except that medication may be administered to a resident as part of the skilled nursing care provided in accordance with division (B) of section 5119.86 of the Revised Code and paragraph (D) of this rule. Members of the staff of an ACF shall not administer medication to residents. No person shall be admitted to or retained by an ACF unless the person is capable of administering the person's own medications, as determined in writing by a physician, except that a person may be admitted to or retained by such a facility if his medication is administered as part of the skilled nursing care provided in accordance with division (B) of section 5119.86 of the Revised Code and paragraph (D) of this rule. Staff members of an ACF may do any of the following once they have received training in providing the services as

required by paragraph (K)(2) of rule 5122-33-13 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 the container, a staff member may open the container for the resident; and
  - (3) Assist a physically impaired but mentally alert resident such as a resident with arthritis, cerebral palsy, or Parkinson's disease 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 medication other than a debriding agent used in the treatment of a skin condition or minor abrasion, and eye, nose, or ear drops excluding irrigations.
- (D) No facility shall provide, or admit or retain any resident in need of skilled nursing care unless all of the following are the case:
- (1) The 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 by an appropriately licensed employee or contract employee of 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;
    - (b) A hospice care program licensed under Chapter 3712. of the Revised Code;

- (c) A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the ACF if the requirements of paragraph (E) of this rule are met;
    - (d) A mental health agency, or ADAMHS board.
  - (2) The staff of the home health agency, hospice care program, nursing home, mental health agency, or ADAMHS board does not train facility staff to provide the skilled nursing care; and
  - (3) The individual to whom the skilled nursing care is provided is suffering from a short-term illness. As used in this paragraph, "short-term illness" means either a medical condition for which recovery can be expected to occur with not more than thirty-five consecutive days of skilled nursing care or a medical condition requiring skilled nursing care provided on a periodic, scheduled basis.
  - (4) If a resident's condition requires more skilled nursing care than permitted under this paragraph, the facility shall transfer or discharge the resident in accordance with section 5119.83 of the Revised Code and rule 5122-33-24 of the Administrative Code.
- (E) If the skilled nursing care is to be provided by the nursing staff of a nursing home, the following requirements shall be met:
- (1) The ACF shall evaluate the individual receiving the skilled nursing care at least once every seven days to determine whether the individual should be transferred to a nursing home;
  - (2) The ACF meets at all times the staffing requirements of rule 5122-33-13 of the Administrative Code;
  - (3) The nursing home does not include the cost of providing skilled nursing care to the ACF residents in a cost report filed under section 5111.26 of the Revised Code;
  - (4) The nursing home meets at all times the nursing home licensure staffing ratios established by rule 3701-17-08 of the Administrative Code;
  - (5) The nursing home staff providing skilled nursing care to ACF residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of

the Revised Code and meet the personnel qualifications for nursing home staff established by rule 3701-17-07 of the Administrative Code;

- (6) The skilled nursing care is provided in accordance with the rules established for nursing homes under section 3721.04 of the Revised Code;
  - (7) The nursing home meets the skilled nursing care needs of the ACF residents; and
  - (8) Using the nursing home's nursing staff does not prevent the nursing home or ACF from meeting the needs of the nursing home and ACF residents in a quality and timely manner.
- (F) A home health agency or hospice care program that provides skilled nursing care pursuant to paragraph (D) of this rule shall not be associated with the ACF unless the facility is part of a home for the aged as defined in section 5701.13 of the Revised Code or the ACF is owned and operated by the same person and located on the same site as a nursing home licensed under Chapter 3721. of the Revised Code that is associated with the home health agency or hospice care program. In addition, the following requirements shall be met:
- (1) The ACF shall evaluate the individual receiving the skilled nursing care not less than once every seven days to determine whether the individual should be transferred to a nursing home;
  - (2) If the costs of providing the skilled nursing care are included in a cost report filed pursuant to section 5111.26 of the Revised Code by the nursing home that is part of the same home for the aged, the home health agency or hospice care program shall not seek reimbursement for the care under the medical assistance program established under Chapter 5111. of the Revised Code.
- (G) In addition to the requirements of paragraph (C) of this rule, ACFs shall handle residents' medications in accordance with this paragraph.
- (1) The facility shall ensure that residents' prescription medications are kept in locked storage areas, except that medications requiring refrigeration shall be refrigerated. All prescribed medications shall be clearly labeled with the resident's name, the name and strength of the medication and the prescription number, if any, the date dispensed, the name of the physician, and the instructions for use.
  - (2) The facility shall not remove and repackage medication from the

pharmacy-dispensed container.

- (3) The facility shall send a resident's medications with the resident upon permanent transfer or discharge, or dispose of the medications with the consent of the resident and in accordance with applicable state and federal laws, regulations, and rules.
  - (4) The facility shall not recommend over-the-counter medications to residents.
  - (5) The 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.
- (H) An ACF may assist a physically impaired, but mentally alert resident, by taking out and arranging equipment or supplies used for routine, self-monitoring tests relating to chronic conditions and assisting the resident in maintaining a record of test results, upon request of the resident. Nothing in this paragraph shall be construed to permit an ACF staff member, manager or operator to interpret routine, self-monitoring test results, or to provide treatment, or to modify currently prescribed treatment as the result of self-monitoring tests. An ACF staff member, manager or operator may encourage a resident to contact a licensed health care professional to report self-monitoring test results.
- (I) In the case of an ACF providing personal care services to one or more individuals with mental illness who are referred by or are receiving mental health services from a mental health agency, the facility shall commence providing personal care services to those residents in accordance with the mental health plan for care upon agreement to the plan by all necessary parties.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

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Certification

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Date

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