

3701-16-03**Initial, renewal, and change of operator license applications; fees; issuance; revocation; notice.**

(A) Not less than sixty days before the proposed opening of a residential care facility, the operator of a residential care facility will submit, on a form prescribed by the director, a completed initial application, and pay the non-refundable application fee specified in section (E) 3721.02 of the Revised Code, with the fee made payable to the "treasurer, state of Ohio" in the form of a check or money order to be deposited in the state treasury to the credit of the general operations fund created by section (A) 3701.83 of the Revised Code. A completed application includes:

(1) A statement by the applicant of the status of the proposed residential care facility 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, signed by a certified public accountant, on a form provided by the director, showing that the applicant has the financial ability to staff, equip, and operate the residential care facility in accordance with Chapter 3721. of the Revised Code, and rules 3701-16-01 to 3701-16-18 of the Administrative Code, and that the applicant has sufficient capital or financial reserve to cover not less than three months of 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, electronic mail 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 residential care facility is housed, the name of each person who has an ownership interest of five per cent or more in the buildings;

(c) The name and address of any residential care facility 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;

(d) The name, business address, electronic mail address, and telephone number of the administrator of the residential care facility, if different from the operator;

(e) The name, business address, electronic mail address, and telephone number of any management firm or business employed to manage the residential care facility; and

(f) The name, business address, and telephone number of the statutory agent of the operator;

(4) Copies of the:

(a) Floor plan for the building or area of a building to be licensed as a residential care facility, including beds;

(b) Certificate of occupancy obligated by paragraph (A) of rule 3701-16-13 of the Administrative Code, showing a use group of R-4, I-1, or I-2;

(c) Inspection report of the state fire marshal or a township, municipal, or other legally constituted fire department approved by the state fire marshal obligated by paragraph (A) of rule 3701-16-13 of the Administrative Code; and

(d) Heating inspection report obligated by paragraph (A) of rule 3701-16-15 of the Administrative Code.

(B) The operator of a residential care facility will submit, on a form prescribed by the director, a completed renewal application, and pay the non-refundable application fee specified in section (E) 3721.02 of the Revised Code, with the fee made payable to the "treasurer, state of Ohio" to be deposited in the state treasury to the credit of the general operations fund created by section (A) 3701.83 of the Revised Code. A completed renewal application includes:

(1) Include an update of the information obligated by paragraphs (A)(2), (A)(3), and (A)(4)(c) 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.

(C) Except as provided in paragraph (E) of this rule, the operator or administrator will notify the director in writing or electronically of any changes in the information contained in paragraphs (A) or (B) no later than ten days after the change occurs.

(D) The operator or administrator will notify the residents and their sponsors or legal representatives and the regional long-term care ombudsman program, designated under section 173.16 of the Revised Code, serving the area where the home is located, in writing or electronically of any changes in the information contained in paragraphs (A)(3)(a), (A)(3)(b), (A)(3)(d), or (A)(3)(e) of this rule no later than ten days after the change occurs.

(E) Subject to sections 3721.026, 3721.03, 3721.05, and 3701.07 of the Revised Code, at least sixty days before the proposed assignment or transfer of the license, the operator of a residential care facility may, with the approval of the director, assign or transfer the license to operate the home after submitting, on a form prescribed by the director, a completed change of operator application and paying the non-refundable application fee specified in section 3721.02 of the Revised Code. The department will deposit the fee in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. A completed change of operator application includes:

(1) 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, electronic mail 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 residential care facility is housed, the name of each person who has an ownership interest of five per cent or more in the buildings;

(c) The name and address of any residential care facility 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;

(d) The name, business address, electronic mail address, and telephone number of the administrator of the residential care facility, if different from the operator;

(e) The name, business address, electronic mail address, and telephone number of any management firm or business employed to manage the residential care facility; and

(f) The name, business address, and telephone number of the statutory agent of the operator; and

(2) Copies of the inspection report from the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal, performed within the previous fifteen months, showing zero uncorrected deficiencies.

A change of the majority ownership of a licensed operator is a change of operator for purposes of this paragraph.

(F) If the residential care facility alters its physical facilities in a manner that affects bed capacity or proposes to relocate existing beds to a unlicensed portion of the facility, the facility will provide the director with written notice at least sixty days prior to the date the facility wants to commence filling the new beds or relocating existing beds. The residential care facility will not use the altered or unlicensed area until the department notifies the facility, in writing, that the alteration or move complies with the applicable provisions of Chapter 3721. of the Revised Code and rules 3701-16-01 to 3701-16-18 of the Administrative Code. The written notice from the facility will include:

(1) A floor plan of the area, including beds;

(2) The results of the inspection by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the state fire marshal for the area; and

(3) A certificate of occupancy for the area.

(G) The following persons will notify the director within ten days of commencement of a suit against them, meaning a party suing has filed a written complaint or petition with the clerk of the court, which could result in the residential care facility being placed in a receivership:

(1) Operator;

(2) Owner of the operator or any person who has an ownership interest of five per cent or more in the entity;

- (3) Owner of the building(s) in which the residential care facility is housed or any person who has an ownership interest of five per cent or more in the entity; and
- (4) Management firm or business employed to manage the residential care facility.
- (H) 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 3701-16-01 to 3701-16-18 of the Administrative Code. The applicant will truthfully respond and submit any additional information requested by the director within sixty days of the director's request unless the director specifies otherwise.
- (I) If the license to operate a home is assigned or transferred to a different person in accordance with paragraph (C) of this rule, the new operator 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.
- (J) An operator who operates one or more residential care facilities in more than one building will obtain a separate license for each building except if such buildings are on the same lot and constitute a single residential care facility, such residential care facility may be operated under a single license. However, no residential care facility will be licensed in the same building as another residential care facility. On or after April 1, 2007, an operator who operates one or more residential care facilities in more than one building, where the buildings are intersected by a public roadway, will not be granted a license to operate the buildings as a single residential care facility, unless before April 1, 2007 the buildings were so licensed.
- (K) The license will be posted in a conspicuous place in the residential care facility.
- (L) 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 will 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 is not allowed 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.
- (M) When closing a home, the operator will provide the director written notification of closure at least ninety days or as soon as practicable after determination is made, but no less than 60 days prior to the proposed closing date and within twenty four hours of an unplanned closure. This notice will 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.
- (N) While providing a written notification of closure under paragraph (O) of this rule, the operator will, 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 ombudsmen program, designated under section 173.16 of the Revised Code, serving the area where the home is located.
- (O) A license for a home that has closed are considered surrendered to the department the three hundred sixty sixth day after the home has closed.
- (P) The residential care facility will include in all official correspondence with the department pertaining to the home, its name, address and license number as it appears on the residential care facility license.
- (Q) The director will determine the type and number of residents a residential care facility can accommodate which will be the authorized maximum licensed capacity of the facility. Such determination will be made on the basis of the physical facilities, personnel of the facility and the services and care needed by the residents to be admitted or retained in the residential care facility, and the permitted occupancy approved by the department of commerce. No operator, administrator, staff member or any other person will set up beds for resident use in a residential care facility which exceed the authorized maximum licensed capacity.

Replaces: 3701-16-03

Effective:

Five Year Review (FYR) Dates:

---

Certification

---

Date

Promulgated Under: 119.03

Statutory Authority: 3721.04

Rule Amplifies: 3721.01, 3721.011, 3721.03, 3721.05, 3721.06,  
3721.07

Prior Effective Dates: 12/21/1992, 09/29/1996, 06/21/1997, 12/01/2001,  
04/01/2007, 01/01/2013, 03/01/2018