

## TO BE RESCINDED

3701-16-03

**Residential care facility licensure application and renewal procedures; revocation.**

- (A) Every applicant for a license to operate a residential care facility shall truthfully and fully complete and submit an initial application on a form prescribed and furnished by the director and pay the nonrefundable application fee, specified in section 3721.02 of the Revised Code, to the director not less than sixty days before the proposed opening of the facility. The application fee required by this rule 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.
- (B) The initial application for a license to operate a residential care facility shall include:
- (1) An attestation of financial solvency at the time of the initial application and updated as requested 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' operation;
  - (2) A statement containing the following information:
    - (a) If the operator is an individual and owner of the business, or superintendent or administrator of a county home or district home, the individual's name, address, and telephone number. If the operator is a business 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 paragraphs (L)(1) and (L)(3) of rule 3701-16-01 of the Administrative 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 and telephone number of the administrator of the residential care facility, if different from the operator;
- (e) The name, business 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.

(3) 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 required by paragraph (A) of rule 3701-16-13 of the Administrative Code;
- (c) Inspection report of the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal required by paragraph (A) of rule 3701-16-13 of the Administrative Code; and
- (d) Heating inspection report required by paragraph (A) of rule 3701-16-15 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.

- (C) The operator of a residential care facility shall truthfully and fully submit a license renewal application and pay the nonrefundable application fee specified in section 3721.02 of the Revised Code specified in section 3721.02 of the Revised Code using an electronic system prescribed by the director. Any residential care facility 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 the 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 facility's license.

- (D) The license renewal application required by paragraph (C) of this rule shall:

- (1) Include an update of the information required under paragraphs (B)(2) and (B)(3) of this rule;

- (2) A copy of the most recent inspection report by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal required by paragraph (A) of rule 3701-16-13 of the Administrative Code;
  - (3) Provide information the director may require to assess whether the operator has violated section 3721.07 of the Revised Code; and
  - (4) Be updated no less than ten days after any changes in the information contained in this paragraph occurs.
- (E) 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 shall notify the director, in writing, 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 shall 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 shall 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 marshal for the area; and
  - (3) A certificate of occupancy for the area.
- (F) The director may request any additional information 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 shall truthfully respond and submit any additional information requested by the director within sixty days of the director's request.
- (G) The director shall issue a license to operate a residential care facility if, after completion of the inspection required by paragraph (A) of rule 3701-16-04 of the Administrative Code and review of the license application, the director determines that the facility meets the requirements of section 3721.07 of the Revised Code. The license shall remain in effect until revoked by the director or voided at the request of the applicant if the annual renewal fee is paid during the month of January of each year.
- (H) A license to operate a residential care facility is valid only for the premises named in the application. If ownership of a facility 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 residential care facilities 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 residential care facility, such facility may be operated under a single license. 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, shall 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.
- (J) The operator shall post the license in a conspicuous place in the residential care facility.
- (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, county home, or district home 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 3701-16-01 to 3701-16-18 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 or of rules 3701-16-01 to 3701-16-18 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, 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, or county home or district home that has its license revoked or denied, may appeal in accordance with Chapter 119. of the Revised Code.

- (N) Once the director notifies a person, county home, or district home 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, county home, or district home 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, county home, or district home that the prohibition has been lifted.
- (1) If a license is revoked under this 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, county home, or district home has been revoked, the director of health shall not issue a license to the person or home at any time. A person, county home, or district home 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) An operator shall give the director written notification of a closing at least sixty days prior to a planned closing date and within twenty four hours of an unplanned closing. 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 (P) 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 longterm care ombudsman program, designated under section 173.16 of the Revised Code, serving the area where the home is located.
- (R) In determining the number of residents in a residential care facility for the purpose of licensing, the director shall consider all the individuals for whom the facility provides accommodations as one group unless one of the following is the case:

- (1) The facility maintains, in addition to a residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the residential care facility, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the residential care facility if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the facility permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of section 3721.02 of the Revised Code and this paragraph.
- (2) The facility provides an adult day care program on the same site as the facility that is separate and distinct from the facility except as otherwise permitted in rules 3701-16-01 to 3701-16-18 of the Administrative Code, in which case the participants of the adult day care program shall not be considered in determining the number of residents in the facility.
- (S) The director shall determine the type and number of residents a residential care facility can accommodate which shall be the authorized maximum licensed capacity of the facility. Such determination shall 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 shall set up beds for resident use in a residential care facility which exceed the authorized maximum licensed capacity.

Effective:

Five Year Review (FYR) Dates: 4/25/2024

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Certification

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Date

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Statutory Authority: 3721.04

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

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