

**As Introduced**

**126th General Assembly  
Regular Session  
2005-2006**

**S. B. No. 87**

**Senator Wachtmann**

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**A BILL**

To amend sections 3721.011 and 3721.04 of the Revised Code regarding the provision of hospice care in residential care facilities. 1  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3721.011 and 3721.04 of the Revised Code be amended to read as follows: 4  
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**Sec. 3721.011.** (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may provide skilled nursing care as follows: 6  
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(1) Supervision of special diets; 10

(2) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code; 11  
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(3) ~~Providing for the~~ Subject to division (B)(1) of this section, administration of medication ~~to residents, to the extent authorized under division (B)(1) of this section;~~ 13  
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(4) Subject to division (C) of this section, the hospice care and services specified in division (A)(1) to (10) of section 3712.01 of the Revised Code; 16  
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(5) Other skilled nursing care provided on a part-time, 19

intermittent basis pursuant to division ~~(C)~~(D) of this section. 20

A residential care facility may not admit or retain an 21  
individual requiring skilled nursing care that is not authorized 22  
by this section. A residential care facility may not provide 23  
skilled nursing care beyond the limits established by this 24  
section. 25

(B)(1) A residential care facility may admit ~~or~~ and retain an 26  
individual requiring medication, including biologicals, only if 27  
the individual's personal physician has determined in writing that 28  
the individual is capable of self-administering the medication or 29  
the facility provides for the medication to be administered to the 30  
individual by a home health agency certified under Title XVIII of 31  
the "Social Security Act," 49 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 32  
U.S.C.A. ~~301~~ 1395, as amended; a hospice care program ~~licensed~~ 33  
~~under Chapter 3712. of the Revised Code pursuant to division (C)~~ 34  
~~of this section~~; or a member of the staff of the residential care 35  
facility who is qualified to perform medication administration. 36  
Medication may be administered in a residential care facility only 37  
by the following persons authorized by law to administer 38  
medication: 39

(a) A registered nurse licensed under Chapter 4723. of the 40  
Revised Code; 41

(b) A licensed practical nurse licensed under Chapter 4723. 42  
of the Revised Code who holds proof of successful completion of a 43  
course in medication administration approved by the board of 44  
nursing and who administers the medication only at the direction 45  
of a registered nurse or a physician authorized under Chapter 46  
4731. of the Revised Code to practice medicine and surgery or 47  
osteopathic medicine and surgery; 48

(c) A physician authorized under Chapter 4731. of the Revised 49  
Code to practice medicine and surgery or osteopathic medicine and 50

surgery. 51

(2) In assisting a resident with self-administration of 52  
medication, any member of the staff of a residential care facility 53  
may do the following: 54

(a) Remind a resident when to take medication and watch to 55  
ensure that the resident follows the directions on the container; 56

(b) Assist a resident by taking the medication from the 57  
locked area where it is stored, in accordance with rules adopted 58  
pursuant to section 3721.04 of the Revised Code, and handing it to 59  
the resident. If the resident is physically unable to open the 60  
container, a staff member may open the container for the resident. 61

(c) Assist a physically impaired but mentally alert resident, 62  
such as a resident with arthritis, cerebral palsy, or Parkinson's 63  
disease, in removing oral or topical medication from containers 64  
and in consuming or applying the medication, upon request by or 65  
with the consent of the resident. If a resident is physically 66  
unable to place a dose of medicine to the resident's mouth without 67  
spilling it, a staff member may place the dose in a container and 68  
place the container to the mouth of the resident. 69

(C)(1) A residential care facility may admit and retain an 70  
individual requiring the hospice care and services specified in 71  
division (A)(1) to (10) of section 3712.01 of the Revised Code 72  
only if the facility enters into a written agreement with a 73  
hospice care program licensed under Chapter 3712. of the Revised 74  
Code that provides for all of the following: 75

(a) A determination that the individual's needs can be met at 76  
the residential care facility; 77

(b) Recurring determinations that the individual's needs are 78  
being met at the residential care facility; 79

(c) A schedule for making the determinations required by 80

division (C)(1)(b) of this section. 81

(2) The hospice care and services specified in division 82  
(A)(1) to (10) of section 3712.01 of the Revised Code may be 83  
provided only by a hospice care program that is licensed under 84  
Chapter 3712. of the Revised Code and enters into an agreement 85  
with the residential care facility under division (C)(1) of this 86  
section. 87

(D) A residential care facility may admit ~~or~~ and retain 88  
individuals who require skilled nursing care beyond the 89  
~~supervision of special diets, application of dressings, or~~ 90  
~~administration of medication~~ types of skilled nursing care 91  
specified in division (A)(1) to (4) of this section, only if the 92  
care will be provided on a part-time, intermittent basis for not 93  
more than a total of one hundred twenty days in any twelve-month 94  
period. In accordance with Chapter 119. of the Revised Code, the 95  
public health council shall adopt rules specifying what 96  
constitutes the need for skilled nursing care on a part-time, 97  
intermittent basis. The council shall adopt rules that are 98  
consistent with rules pertaining to home health care adopted by 99  
the director of job and family services for the ~~medical assistance~~ 100  
medicaid program established under Chapter 5111. of the Revised 101  
Code. Skilled nursing care provided pursuant to this division may 102  
be provided by a home health agency certified under Title XVIII of 103  
the "Social Security Act," ~~49 Stat. 620 (1935), 42 U.S.C.A. 301,~~ 104  
~~as amended,~~ a hospice care program licensed under Chapter 3712. of 105  
the Revised Code, or a member of the staff of a residential care 106  
facility who is qualified to perform skilled nursing care. 107

A residential care facility that provides skilled nursing 108  
care pursuant to this division shall do both of the following: 109

(1) Evaluate each resident receiving the skilled nursing care 110  
at least once every seven days to determine whether the resident 111

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| should be transferred to a nursing home;  | 112                                    |
| (2) Meet the skilled nursing care needs of each resident receiving the care.  | 113<br>114                             |
| <del>(D)</del> <u>(E)</u> Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.  | 115<br>116<br>117                      |
| <b>Sec. 3721.04.</b> (A) The public health council shall adopt and publish rules governing the operation of homes, which shall have uniform application throughout the state, and shall prescribe standards for homes with respect to, but not limited to, the following matters:   | 118<br>119<br>120<br>121<br>122        |
| (1) The minimum space requirements for occupants and equipping of the buildings in which homes are housed so as to ensure healthful, safe, sanitary, and comfortable conditions for all residents, so long as they are not inconsistent with Chapters 3781. and 3791. of the Revised Code or with any rules adopted by the board of building standards and by the state fire marshal; | 123<br>124<br>125<br>126<br>127<br>128 |
| (2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term care facilities, as defined in that section;  | 129<br>130<br>131<br>132<br>133        |
| (3) The medical, rehabilitative, and recreational services to be provided by each class of home;  | 134<br>135                             |
| (4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;   | 136<br>137                             |
| (5) The personal and social services to be provided by each class of home;  | 138<br>139                             |
| (6) The business and accounting practices to be followed and  | 140                                    |

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| the type of patient and business records to be kept by such homes;  | 141   |
| (7) The operation of adult day-care programs provided by and<br>on the same site as homes licensed under this chapter;  | 142<br>143                                    |
| (8) The standards and procedures to be followed by<br>residential care facilities in admitting and retaining a resident<br>who requires the application of dressings, including requirements<br>for charting and evaluating on a weekly basis;  | 144<br>145<br>146<br>147                      |
| (9) The requirements for conducting weekly evaluations of<br>residents receiving skilled nursing care in residential care<br>facilities.  | 148<br>149<br>150                             |
| (B) The public health council may adopt whatever additional<br>rules are necessary to carry out or enforce the provisions of<br>sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.  | 151<br>152<br>153                             |
| (C) The following apply to the public health council when<br>adopting rules under division (A)(2) of this section regarding the<br>number and qualifications of personnel in homes:   | 154<br>155<br>156                             |
| (1) When adopting rules applicable to residential care<br>facilities, the public health council shall take into<br>consideration the effect that the provision of personal care<br>services and part-time, intermittent skilled nursing care pursuant<br>to division <del>(C)</del> (D) of section 3721.011 of the Revised Code may<br>have on the number of personnel needed.  | 157<br>158<br>159<br>160<br>161<br>162        |
| (2) The rules prescribing qualifications of nurse aides used<br>by long-term care facilities, as those terms are defined in<br>section 3721.21 of the Revised Code, shall be no less stringent<br>than the requirements, guidelines, and procedures established by<br>the United States secretary of health and human services under<br>sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620<br>(1935), 42 U.S.C.A. 301, as amended. | 163<br>164<br>165<br>166<br>167<br>168<br>169 |
| <b>Section 2.</b> That existing sections 3721.011 and 3721.04 of the  | 170   |

Revised Code are hereby repealed.

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