

**As Passed by the Senate**

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**Sub. S. B. No. 87**

**Senators Wachtmann, Hagan, Gardner, Mumper, Clancy, Amstutz, Austria,  
Carey, Niehaus, Padgett, Schuring, Jordan, Harris, Zurz, Schuler,  
Armbruster, Brady, Cates, Coughlin, Dann, Fedor, Fingerhut, Goodman,  
Grendell, Hottinger, Jacobson, Mallory, Miller, Prentiss, Roberts, Spada,  
Wilson**

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**A B I L L**

To amend sections 3721.011 and 3721.04 of the Revised 1  
Code regarding the provision of hospice care in 2  
residential care facilities. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3721.011 and 3721.04 of the Revised 4  
Code be amended to read as follows: 5

**Sec. 3721.011.** (A) In addition to providing accommodations, 6  
supervision, and personal care services to its residents, a 7  
residential care facility may provide skilled nursing care to its 8  
residents as follows: 9

(1) Supervision of special diets; 10

(2) Application of dressings, in accordance with rules 11  
adopted under section 3721.04 of the Revised Code; 12

(3) ~~Providing for the~~ Subject to division (B)(1) of this 13  
section, administration of medication ~~to residents, to the extent~~ 14  
~~authorized under division (B)(1) of this section;~~ 15

(4) ~~Other~~ Subject to division (C) of this section, other 16  
skilled nursing care provided on a part-time, intermittent basis 17  
~~pursuant to division (C) of this section~~ for not more than a total 18  
of one hundred twenty days in a twelve-month period; 19

(5) Subject to division (D) of this section, skilled nursing 20  
care provided for more than one hundred twenty days in a 21  
twelve-month period to a hospice patient, as defined in section 22  
3712.01 of the Revised Code. 23

A residential care facility may not admit or retain an 24  
individual requiring skilled nursing care that is not authorized 25  
by this section. A residential care facility may not provide 26  
skilled nursing care beyond the limits established by this 27  
section. 28

(B)(1) A residential care facility may admit or retain an 29  
individual requiring medication, including biologicals, only if 30  
the individual's personal physician has determined in writing that 31  
the individual is capable of self-administering the medication or 32  
the facility provides for the medication to be administered to the 33  
individual by a home health agency certified under Title XVIII of 34  
the "Social Security Act," 49 79 Stat. 620 (~~1935~~ 1965), 42 35  
U.S.C.A. ~~301~~ 1395, as amended; a hospice care program licensed 36  
under Chapter 3712. of the Revised Code; or a member of the staff 37  
of the residential care facility who is qualified to perform 38  
medication administration. Medication may be administered in a 39  
residential care facility only by the following persons authorized 40  
by law to administer medication: 41

(a) A registered nurse licensed under Chapter 4723. of the 42  
Revised Code; 43

(b) A licensed practical nurse licensed under Chapter 4723. 44  
of the Revised Code who holds proof of successful completion of a 45  
course in medication administration approved by the board of 46

nursing and who administers the medication only at the direction 47  
of a registered nurse or a physician authorized under Chapter 48  
4731. of the Revised Code to practice medicine and surgery or 49  
osteopathic medicine and surgery; 50

(c) A physician authorized under Chapter 4731. of the Revised 51  
Code to practice medicine and surgery or osteopathic medicine and 52  
surgery. 53

(2) In assisting a resident with self-administration of 54  
medication, any member of the staff of a residential care facility 55  
may do the following: 56

(a) Remind a resident when to take medication and watch to 57  
ensure that the resident follows the directions on the container; 58

(b) Assist a resident by taking the medication from the 59  
locked area where it is stored, in accordance with rules adopted 60  
pursuant to section 3721.04 of the Revised Code, and handing it to 61  
the resident. If the resident is physically unable to open the 62  
container, a staff member may open the container for the resident. 63

(c) Assist a physically impaired but mentally alert resident, 64  
such as a resident with arthritis, cerebral palsy, or Parkinson's 65  
disease, in removing oral or topical medication from containers 66  
and in consuming or applying the medication, upon request by or 67  
with the consent of the resident. If a resident is physically 68  
unable to place a dose of medicine to the resident's mouth without 69  
spilling it, a staff member may place the dose in a container and 70  
place the container to the mouth of the resident. 71

(C) A residential care facility may admit or retain 72  
individuals who require skilled nursing care beyond the 73  
supervision of special diets, application of dressings, or 74  
administration of medication, only if the care will be provided on 75  
a part-time, intermittent basis for not more than a total of one 76  
hundred twenty days in any twelve-month period. In accordance with 77

Chapter 119. of the Revised Code, the public health council shall  
adopt rules specifying what constitutes the need for skilled  
nursing care on a part-time, intermittent basis. The council shall  
adopt rules that are consistent with rules pertaining to home  
health care adopted by the director of job and family services for  
the medical assistance program established under Chapter 5111. of  
the Revised Code. Skilled nursing care provided pursuant to this  
division may be provided by 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,~~ a hospice care program licensed under  
Chapter 3712. of the Revised Code, or a member of the staff of a  
residential care facility who is qualified to perform skilled  
nursing care.

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

(1) Evaluate each resident receiving the skilled nursing care  
at least once every seven days to determine whether the resident  
should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident  
receiving the care.

(D) A residential care facility may admit or retain a hospice  
patient who requires skilled nursing care for more than one  
hundred twenty days in any twelve-month period only if the  
facility has entered into a written agreement with a hospice care  
program licensed under Chapter 3712. of the Revised Code. The  
agreement between the residential care facility and hospice  
program shall include all of the following provisions:

(1) That the hospice patient will be provided skilled nursing  
care in the facility only if a determination has been made that  
the patient's needs can be met at the facility;

(2) That the hospice patient will be retained in the facility

only if periodic redeterminations are made that the patient's 109  
needs are being met at the facility; 110

(3) That the redeterminations will be made according to a 111  
schedule specified in the agreement; 112

(4) That the hospice patient has been given an opportunity to 113  
choose the hospice care program that best meets the patient's 114  
needs. 115

(E) Notwithstanding any other provision of this chapter, a 116  
residential care facility in which residents receive skilled 117  
nursing care pursuant to this section is not a nursing home. 118

**Sec. 3721.04.** (A) The public health council shall adopt and 119  
publish rules governing the operation of homes, which shall have 120  
uniform application throughout the state, and shall prescribe 121  
standards for homes with respect to, but not limited to, the 122  
following matters: 123

(1) The minimum space requirements for occupants and 124  
equipping of the buildings in which homes are housed so as to 125  
ensure healthful, safe, sanitary, and comfortable conditions for 126  
all residents, so long as they are not inconsistent with Chapters 127  
3781. and 3791. of the Revised Code or with any rules adopted by 128  
the board of building standards and by the state fire marshal; 129

(2) The number and qualifications of personnel, including 130  
management and nursing staff, for each class of home, and the 131  
qualifications of nurse aides, as defined in section 3721.21 of 132  
the Revised Code, used by long-term care facilities, as defined in 133  
that section; 134

(3) The medical, rehabilitative, and recreational services to 135  
be provided by each class of home; 136

(4) Dietetic services, including but not limited to 137  
sanitation, nutritional adequacy, and palatability of food; 138

(5) The personal and social services to be provided by each class of home;	139 140
(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;	141 142
(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;	143 144
(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;	145 146 147 148
(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.	149 150 151
(B) The public health council may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.	152 153 154
(C) The following apply to the public health council when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:	155 156 157
(1) When adopting rules applicable to residential care facilities, the public health council shall take into consideration the effect that the <del>provision</del> <u>following may have on the number of personnel needed:</u>	158 159 160 161
<u>(a) Provision of personal care services and;</u>	162
<u>(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code may have on the number of personnel needed;</u>	163 164 165
<u>(c) Provision of skilled nursing care to hospice patients pursuant to division (D) of section 3721.011 of the Revised Code.</u>	166 167

(2) The rules prescribing qualifications of nurse aides used 168  
by long-term care facilities, as those terms are defined in 169  
section 3721.21 of the Revised Code, shall be no less stringent 170  
than the requirements, guidelines, and procedures established by 171  
the United States secretary of health and human services under 172  
sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 173  
(1935), 42 U.S.C.A. 301, as amended. 174

**Section 2.** That existing sections 3721.011 and 3721.04 of the 175  
Revised Code are hereby repealed. 176