

**As Reported by the Senate Health, Human Services and Aging
Committee**

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Sub. S. B. No. 87

Senators Wachtmann, Hagan, Gardner, Mumper, Clancy

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A B I L L

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

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:

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 to its residents as follows:

- (1) Supervision of special diets;
- (2) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;
- (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;~~
- (4) ~~Other~~ Subject to division (C) of this section, other skilled nursing care provided on a part-time, intermittent basis ~~pursuant to division (C) of this section~~ for not more than a total

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 78
adopt rules specifying what constitutes the need for skilled 79
nursing care on a part-time, intermittent basis. The council shall 80

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.

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

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(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;

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

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(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:

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(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;

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(2) That the hospice patient will be retained in the facility
only if periodic redeterminations are made that the patient's
needs are being met at the facility;

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(3) That the redeterminations will be made according to a schedule specified in the agreement; 111
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(4) That the hospice patient has been given an opportunity to choose the hospice care program that best meets the patient's needs. 113
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(E) 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. 116
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Sec. 3721.04. (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: 119
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(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; 124
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(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; 130
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(3) The medical, rehabilitative, and recreational services to be provided by each class of home; 135
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(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food; 137
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(5) The personal and social services to be provided by each class of home; 139
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(6) The business and accounting practices to be followed and	141
the type of patient and business records to be kept by such homes;	142
(7) The operation of adult day-care programs provided by and	143
on the same site as homes licensed under this chapter;	144
(8) The standards and procedures to be followed by	145
residential care facilities in admitting and retaining a resident	146
who requires the application of dressings, including requirements	147
for charting and evaluating on a weekly basis;	148
(9) The requirements for conducting weekly evaluations of	149
residents receiving skilled nursing care in residential care	150
facilities.	151
(B) The public health council may adopt whatever additional	152
rules are necessary to carry out or enforce the provisions of	153
sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.	154
(C) The following apply to the public health council when	155
adopting rules under division (A)(2) of this section regarding the	156
number and qualifications of personnel in homes:	157
(1) When adopting rules applicable to residential care	158
facilities, the public health council shall take into	159
consideration the effect that the provision <u>following may have on</u>	160
<u>the number of personnel needed:</u>	161
<u>(a) Provision of personal care services and;</u>	162
<u>(b) Provision of part-time, intermittent skilled nursing care</u>	163
<u>pursuant to division (C) of section 3721.011 of the Revised Code</u>	164
<u>may have on the number of personnel needed;</u>	165
<u>(c) Provision of skilled nursing care to hospice patients</u>	166
<u>pursuant to division (D) of section 3721.011 of the Revised Code.</u>	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