



Ohio Administrative Code Rule 3701-16-01 Definitions.

Effective: March 1, 2018

As used in rules 3701-16-01 to 3701-16-18 of the Administrative Code:

(A) "Accommodations" means housing, meals, laundry, housekeeping, transportation, social or recreational activities, maintenance, security, or similar services that are not personal care services or skilled nursing care.

(B) "Activities of daily living" means walking and moving, bathing, grooming, toileting, oral hygiene, hair care, dressing, eating, and nail care.

(C) "Administrator" means the person responsible for the daily operation of the residential care facility. The administrator and the operator may be the same person.

(D) "Bedroom" means a room used by a resident or residents for sleeping purposes that is either a resident unit or a portion of a resident unit.

(E) "Complex therapeutic diets" has the same meaning as "therapeutic diet" as that term is defined in paragraph (OO) of this rule

(F) "County home" and "district home" mean an entity operated under Chapter 5155. of the Revised Code.

(G) "Department" means the department of health.

(H) "Developmental delay" means that a child has not reached developmental milestones expected for his or her chronological age as measured by qualified professionals using appropriate diagnostic instruments and/or procedures.

(1) Delay shall be demonstrated in one or more of the following developmental areas: adaptive



behavior, physical developmental or maturation (fine and gross motor skills; growth) cognition; social or emotional development; and sensory development; or

(2) An established risk involving early aberrant development related to diagnosed medical disorders, such as infants and toddlers who are on a ventilator, are adversely affected by drug exposure, or have a diagnosed medical disorder or physical or mental condition known to result in developmental delay such as Down syndrome.

(I) "Developmental diagnosis" means a severe, chronic disability that is characterized by the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental impairment solely caused by mental illness as that term is defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk.

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other



type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(J) "Director" means the director of health or any office, bureau, agency, official or employee of the department to which the director has delegated his authority or duties.

(K) "Dietitian" means an individual licensed under Chapter 4759. of the Revised Code to practice dietetics.

(1) "Home" means both of the following:

(a) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, and the Ohio veterans' home;

(b) A county home or district home that is or has been licensed as a residential care facility.

(2) "Home" also means any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981), and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or under division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989.

(3) "Home" does not mean any of the following:

(a) Except as provided in division (A)(1)(b) of section 3721.01 of the Revised Code, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(b) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;



- (c) A residential facility as defined in section 5123.19 of the Revised Code;
- (d) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;
- (e) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;
- (f) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;
- (g) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;
- (h) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;
- (i) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order; or
- (j) A county home or district home that has never been licensed as a residential care facility.
- (M) "Home health agency" means an agency certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981).
- (N) "Licensed practical nurse" means a person licensed under Chapter 4723. of the Revised Code to practice nursing as a licensed practical nurse.
- (O) "Lot" means a plot or parcel of land considered as a unit, devoted to a certain use, or occupied by a building or group of buildings that are united by a common interest and use, and the customary



accessories and open spaces belonging to the same.

(P) "Maximum licensed capacity" means the authorized type and number of residents in a home as determined in paragraph (S) of rule 3701-16-03 of the Administrative Code.

(Q) "Mechanically altered food" means that the texture of food is altered altered by chopping, grinding, mashing, or pureeing so that it can be successfully chewed and safely swallowed.

(R) "Mental impairment" does not mean mental illness as that term is defined in section 5122.01 of the Revised Code or intellectual disability as that term is defined in section 5123.01 of the Revised Code.

(S) "Nonambulatory" means not able to walk or not physically able to leave the premises without assistance from another individual.

(T) "Nurse" means a registered nurse or licensed practical nurse.

(U) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(V) "Ohio building code" means the building requirements, as adopted by the board of building standards pursuant to section 3781.10 of the Revised Code.

(W) "On call" means the person can be contacted at all times and is immediately available to go on duty in the home upon short notice.

(X) "On duty" means being in the home, awake, and immediately available.

(Y) "Operator" means the person, firm, partnership, association, or corporation which is required by section 3721.05 of the Revised Code to obtain a license in order to open, maintain or operate a home and the superintendent or administrator of a county home or district home licensed or seeking



to be licensed as a residential care facility.

(Z) "Personal care services" means services including, but not limited to, the following:

(1) Assisting residents with activities of daily living:

(2) Assisting residents with self-administration of medication, in accordance with rule 3701-16-09 of the Administrative Code;

(3) Preparing food for special diets, other than therapeutic diets, for residents pursuant to the instructions of a physician, a licensed health care professional acting within their applicable scope of practice, or a licensed dietitian, in accordance with rule 3701-16-10 of the Administrative Code.

"Personal care services" does not include "skilled nursing care". A facility need not provide more than one of the services listed in this paragraph to be considered to be providing personal care services.

(AA) "Physician" means an individual licensed under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(BB) "Registered nurse" means an individual licensed to practice nursing as a registered nurse under Chapter 4723. of the Revised Code.

(CC) "Resident" means an unrelated individual to whom a residential care facility provides accommodations.

(DD) "Resident call system" means a set of devices that are connected electrically, electronically, by radio frequency transmission, or in a like manner, are resident activated, and effectively can alert the staff member or members on duty of emergencies or resident needs.

(EE) "Resident unit" means the private room or rooms occupied by a resident or residents.

(FF) "Residents' rights" means the rights enumerated in sections 3721.10 to 3721.17 of the Revised



Code.

(GG) "Residential care facility" means a home that provides either of the following:

(1) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(2) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(HH) "Serious mental illness" means an illness classified in the "Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised (DSM-III-R)," that meets at least two of the three following criteria of diagnosis, duration and disability:

(1) Diagnosis: The current primary diagnosis is:

(a) Delusional disorders (DSM-III-R 297.10);

(b) Dissociative disorders (DSM-III-R 300.14);

(c) Eating disorders (DSM-III-R 307.10, 307.51, 307.52);

(d) Mood disorders (DSM-III-R 296.3x, 296.4x, 296.5x, 296.6x, 296.70, 300.40, 301.13, 311.00);

(e) Organic mental disorders (DSM-III-R 290.0, 290.10, 290.1x, 290.4x, 294.10, 294.80);

(f) Personality disorders (DSM-III-R 301.00, 301.20, 301.22, 301.40, 301.50, 301.60, 301.70, 301.81, 301.82, 301.83, 301.84, 301.90);

(g) Psychotic disorders (DSM-III-R 395.40, 295.40, 295.70, 298.90);



(h) Schizophrenia (DSM-IIIIR 295.1x, 295.2x, 295.3x, 295.6x, 295.9x);

(i) Somatoform disorder (DSM-IIIIR 307.80);

(j) Other disorders (DSM-IIIIR 313.23, 313.81, 313.82); or

(k) Other specified.

(2) Duration: the length of the problem can be assessed by either inpatient or outpatient use of service history, reported length of time of impairment, or some combination, including at least two prior hospitalizations of more than twenty-one days or any number of hospitalizations (more than one) totaling at least forty-two days prior to the assessment, or ninety to three hundred sixty-five days in a hospital or nursing home within three prior years, or major functional impairment lasting more than two years, resulting in utilization of outpatient mental health services on an intermittent basis, a continuous basis, or both.

(3) Disability/functional impairment: severity of disability can be established by disruption in two or more life activities, including but not limited to:

(a) Employment;

(b) Contributing substantially to one's own financial support (not to be entitlements);

(c) Independent residence;

(d) Self-care;

(e) Perception and cognition;

(f) Stress management or coping skills; or

(g) Interpersonal and social relations.



(II) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

- (1) Irrigations, catheterizations, application of dressings, and supervision of special diets;
- (2) Objective observation of changes in the resident's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;
- (3) Special procedures contributing to rehabilitation;
- (4) Administration of medication by any method ordered by a physician or other licensed health care professional acting within their applicable scope of practice, such as hypodermically, rectally, or orally, including observation of the resident after receipt of the medication; or
- (5) Carrying out other treatments prescribed by the physician or other licensed health care professional acting within their applicable scope of practice, that involve a similar level of complexity and skill in administration.

(JJ) "Special care unit" means a residential care facility, or part thereof, that is dedicated to providing care to residents with diagnoses, that include, but are not limited to, late-stage cognitive impairment with significant ongoing daily living assistance needs, cognitive impairments with increased emotional needs or presenting behaviors that cause problems for the resident or other residents, or both; or, serious mental illness.

(KK) "Special diets" means a therapeutic diet limited to:

- (1) Nutrient adjusted diets, including high protein, no added salt, and no concentrated sweets
- (2) Volume adjusted diets, including small, medium and large portions;



(3) The use of finger foods or bite-sized pieces for a resident's physical needs; or

(4) Mechanically altered food.

(LL) "Staff member" or "staff" means an individual working in a residential care facility including the owner; the administrator; a full-time, part-time or temporary paid employee; or an individual working on contract for the facility.

(MM) "Supervision" means:

(1) Watching over a resident, when necessary, while the resident engages in activities of daily living or other activities to ensure the resident's health, safety, and welfare;

(2) Reminding a resident to do or complete such an activity, as by reminding him or her to engage in personal hygiene or other self-care activity; or

(3) Helping a resident to schedule or keep an appointment, or both, including the arranging for transportation.

"Supervision" does not include reminding a resident to take medication and watching the resident to ensure that the resident follows the directions on the container, or supervision of therapeutic diets as described in paragraph (J) of rule 3701-16-10 of the Administrative Code.

(NN) "Supervision of therapeutic diets" means services, including, but not limited to, the following:

(1) Monitoring a resident's access to appropriate foods as required by a therapeutic diet;

(2) Monitoring a resident's weight and acceptance of a therapeutic diet;

(3) Providing assistance to residents on therapeutic diets as needed or requested: and

(4) Providing or preparing therapeutic diets.



(OO) "Therapeutic diet" means a diet ordered by a health care practitioner:

- (1) As part of the treatment for a disease or clinical condition;
- (2) To eliminate, decrease, or increase certain substances in the diet; or
- (3) To provide mechanically altered food when indicated.

(PP) "Unrelated individual" means one who is not related to the owner or operator of the residential care facility or to his or her spouse as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.