

3701-17-07.1 Required training and competency evaluation for nurse aides working in long-term care facilities.

(A) For the purposes of this rule:

- (1) "Competency evaluation program" means a program conducted by the director or the director's designee under division (C) of section 3721.31 of the Revised Code and rule 3701-18-22 of the Administrative Code.
- (2) "Licensed health professional" means all of the following:
 - (a) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (b) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (c) A physician as defined in section 4730.01 of the Revised Code;
 - (d) A physician's assistant for whom a physician holds a valid certificate of registration issued under section 4730.04 of the Revised Code;
 - (e) A registered nurse, including those authorized to practice in an advance practice role, or a licensed practical nurse licensed under Chapter 4723. of the Revised Code;
 - (f) A social worker or independent social worker licensed, or social work assistant certified under Chapter 4757. of the Revised Code;
 - (g) A speech pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
 - (h) A dentist or a dental hygienist licensed under Chapter 4715. of the Revised Code;
 - (i) An optometrist licensed under Chapter 4725. of the Revised Code;
 - (j) A pharmacist licensed under Chapter 4729. of the Revised Code;
 - (k) A psychologist licensed under Chapter 4732. of the Revised Code;
 - (l) A chiropractor licensed under Chapter 4734. of the Revised Code;
 - (m) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;
 - (n) A dietitian licensed under Chapter 4759. of the Revised Code;
 - (o) A respiratory care professional licensed under Chapter 4761. of the Revised Code; and
 - (p) A massage therapist licensed under section 4731.17 of the Revised Code.
- (3) "Long-term care facility" or "facility" means either of the following:

- (a) A nursing home as defined in section 3721.01 of the Revised Code, other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; or
 - (b) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the Social Security Act.
- (4) "Nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, other than a licensed health professional practicing within the scope of his or her license or an individual who provides nursing or nursing-related services as a volunteer without monetary compensation.
- (5) "Nursing and nursing-related services" when performed by a nurse aide in a long term care facility, means activities including attending to the personal care needs of residents, and providing personal care services and activities delegated by a nurse which may include implementation of portions of the nursing regimen, as defined in section 4723.01 of the Revised Code, for residents whose care does not require nursing assessment or the judgment of a nurse during the performance of the delegated activity. Nursing and nursing-related services does not include activities that are part of the nursing regimen which require the specialized knowledge, judgment, and skill of a registered nurse or the application of the basic knowledge and skill required of a licensed practical nurse licensed under Chapter 4723. of the Revised Code or any other activities that are required to be performed by a licensed nurse under Chapter 4723. of the Revised Code. Nursing and nursing-related services" does not include assisting residents with feeding when performed by a dining assistant pursuant to rule 3701-17-07.2 of the Administrative Code.
- (6) To "use an individual as a nurse aide" means to engage the individual to perform nursing and nursing-related services in and on behalf of a long-term care facility.
- (7) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services approved by the director under division (A) of section 3721.31 of the Revised Code and Chapter 3701-18 of the Administrative Code.
- (B) No long-term care facility shall use an individual as a nurse aide for more than four months unless the individual is competent to provide the services he or she is to provide; the facility has received from the nurse aide registry, established under section 3721.32 of the Revised Code, the information concerning the individual provided through the registry; and one of the following is the case:
- (1) The individual was used by a facility as a nurse aide on a full-time, temporary, per diem, or other basis at any time during the period commencing July 1, 1989, and ending January 1, 1990, and successfully completed, not later than October 1, 1990, a competency evaluation program conducted former rule 3701-18-07 of the Administrative Code, in effect prior to October 1, 1990;
 - (2) The individual either has successfully completed a training and competency evaluation program or has satisfied the requirements of paragraphs (B)(2)(a) and (B)(2)(b) of this rule and, in either case, also has completed successfully

the competency evaluation program. An individual shall be considered to have satisfied the requirement of having successfully completed a training and competency evaluation program if the individual meets both of the following:

- (a) The individual, as of July 1, 1989, completed at least sixty hours divided between skills training and classroom instruction in the topic areas described in divisions (B)(1) to (B)(8) of section 3721.30 of the Revised Code; and
 - (b) The individual received, as of that date, at least the difference between seventy-five hours and the number of hours actually spent in training and competency evaluation in supervised practical nurse aide training or regular in-service nurse aide education. For an individual to satisfy the requirements of this paragraph, the combination of skills training, classroom instruction, supervised practical nurse aide training and in-service nurse aide education shall have addressed the topic areas and subject matter components prescribed by former rule 3701-18-07 of the Administrative Code and its appendix in effect at the time of the determination.
- (3) Prior to July 1, 1989, if the long-term care facility is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or prior to January 1, 1990, if the facility is not so certified, the individual completed a program that the director determines included a competency evaluation component no less stringent than the competency evaluation program conducted under former rule 3701-18-07 of the Administrative Code in effect at the time of the determination and was otherwise comparable to approved training and competency evaluation programs;
 - (4) The individual is listed in a nurse aide registry maintained by another state and that state certifies that its program for training and evaluation of competency of nurse aides complies with Titles XVIII and XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and regulations adopted thereunder;
 - (5) Prior to July 1, 1989, the individual was found competent to serve as a nurse aide after the completion of a course of nurse aide training of at least one hundred hours' duration. The determination of competency shall have been made by the director or by an instructor of the course of nurse aide training;
 - (6) The individual is enrolled in a prelicensure program of nursing education approved by the board of nursing or by an agency of another state that regulates nursing education, has provided the long-term care facility with a certificate from the program indicating that the individual has successfully completed the courses that teach basic nursing skills including infection control, safety and emergency procedures and personal care, and has successfully completed the competency evaluation program; or
 - (7) The individual has the equivalent of twelve months or more of full-time employment in the preceding five years as a hospital aide or orderly and has successfully completed a competency evaluation program.

Before allowing an individual to serve as a nurse aide for more than four months in accordance with this paragraph, a facility shall receive registry verification that the individual has met the competency requirements under this paragraph

unless the individual can prove that he or she has recently met the requirements and has not yet been listed on the registry. In the event that an individual has not yet been listed on the registry, facilities shall follow up by contacting the nurse aide registry to ensure that such an individual actually becomes listed on the registry. Once the facility receives written registry verification, it shall maintain such verification on file.

- (C) During the four month period provided for in paragraph (B) of this rule, during which a long-term care facility may, subject to paragraph (H) of this rule, use as a nurse aide an individual who does not have the qualifications specified in paragraphs (B)(1) to (B)(7) of this rule, a facility shall require the individual to participate in one of the following:
- (1) If the individual has successfully completed a training and competency evaluation program, a competency evaluation program conducted by the director;
 - (2) If the individual is enrolled in a prelicensure program of nursing education described in paragraph (B)(6) of this rule, and has completed or is working toward completion of the courses described in that paragraph, or the individual has the experience described in paragraph (B)(7) of this rule, a competency evaluation program; or
 - (3) A training and competency evaluation program and the competency evaluation program.
- (D) No long-term care facility shall continue for longer than four months to use as a nurse aide an individual who previously met the requirements of paragraph (B) of this rule but since most recently doing so has not performed nursing and nursing-related services for monetary compensation for twenty-four consecutive months, unless the individual successfully completes additional training and competency evaluation by complying with paragraphs (D)(1) and (D)(2) of this rule:
- (1) Doing one of the following:
 - (a) Successfully completing a training and competency evaluation program;
 - (b) Successfully completing a training and competency evaluation program described in paragraph (B)(4) of this rule; or
 - (c) Meeting the requirements specified in paragraph (B)(6) or (B)(7) of this rule; and
 - (2) In the case of an individual who is described in paragraph (D)(1)(a) or (D)(1)(c) of this rule, successfully completing the competency evaluation program.
- (E) During the four-month period provided for in paragraph (D) of this rule during which a long-term care facility may, subject to paragraph (H) of this rule, use as a nurse aide an individual who does not have the qualifications specified in paragraphs (D)(1) and (D)(2) of this rule, a facility shall require the individual to participate in one of the following:
- (1) If the individual has successfully completed a training and competency evaluation program, a competency evaluation program conducted by the director;

- (2) If the individual is enrolled in a prelicensure program of nursing education described in paragraph (B)(6) of this rule and has completed or is working toward completion of the courses described in that paragraph or the individual has the experience described in paragraph (B)(7) of this rule, a competency evaluation program; or
 - (3) A training and competency evaluation program and, in addition, a competency evaluation program.
- (F) For the purposes of paragraphs (C) and (E) of this rule, an individual shall be considered to be participating in a training and competency evaluation program or a competency evaluation program, as applicable, if, at minimum, the individual has a document signed by a representative of the program attesting that the individual is scheduled to attend the program.
- (G) The four month periods provided for in paragraphs (B) and (D) of this rule include any time, on or after June 1, 1990, that an individual is used as a nurse aide on a full time, temporary, per diem or other basis by the facility or any other long-term care facility.
- (H) A long-term care facility shall not permit an individual used by the facility as a nurse aide while participating in a training and competency evaluation program to provide nursing and nursing-related services unless both of the following are the case:
- (1) The individual has completed the number of hours of training that he or she must complete prior to providing services to residents as prescribed by paragraph (A)(4) of rule 3701-18-05 of the Administrative Code through the program in which the individual is enrolled; and
 - (2) The individual is under the personal supervision of a registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code.
- An individual used by a long-term care facility as a nurse aide while participating in a training and competency evaluation program shall wear a name pin at all times that clearly indicates that the individual is a trainee. As used in this paragraph, "personal supervision" means being present physically on the floor where the individual is providing services, being available at all times to respond to requests for assistance from the individual, and being within a distance which allows the nurse periodically to observe the individual providing services.
- (I) No long-term care facility shall impose on a nurse aide any charge for participation in any competency evaluation program or training and competency evaluation program, including any charge for textbooks, other required course materials or a competency evaluation.
- (J) No long-term care facility shall require that an individual used by the facility as a nurse aide or seeking employment as a nurse aide pay or repay, either before or while the individual is employed by the facility or when the individual leaves the facility's employ, any costs associated with the individual's participation in a competency evaluation program or training and competency evaluation program.
- (K) In addition to competency evaluation programs and training and competency evaluation programs required by this rule, each long-term care facility shall provide all of the following to each nurse aide it uses:

- (1) An orientation program that includes at least an explanation of the organizational structure of the facility, its policies and procedures, its philosophy of care, a description of its resident population, and an enumeration of its employee rules. The orientation program shall be of sufficient duration to cover the topics enumerated in this paragraph adequately in light of the size and nature of the facility, its resident population, and the anticipated length of employment of the nurse aide. The orientation program for nurse aides permanently employed by the long-term care facility shall be at least three hundred and sixty minutes in length to occur during the first forty hours worked, with one hundred and eighty minutes occurring before the nurse aide has any resident contact;
- (2) Regular performance review to assure that individuals working in the facility as nurse aides are competent to perform the nursing and nursing-related services they perform. Performance reviews shall be conducted at least ninety days after the nurse aide completes successfully the competency evaluation program or commences work in the facility and annually thereafter. The performance review shall consist, at minimum, of an evaluation of the nurse aide's working knowledge and clinical performance and shall be conducted by the aide's immediate supervisor or a nurse designated by the facility to conduct the performance evaluations. The facility shall maintain a written record of each performance review; and
- (3) Regular in-service education, both in groups and, as necessary in specific situations, on a one-to-one basis, based on the outcome of performance reviews required by paragraph (K)(2)(a) of this rule. For the purposes of this provision, "specialty unit" means a discrete part of the nursing home that houses residents who have common specialized care needs, including, but not limited to, dementia care, hospice care, and mental health care units.
 - (a) Formal in-service education shall include an instructional presentation and may include skills demonstration with return demonstration and in-service training. In-service training may be provided on the unit as long as it is directed toward skills improvement, is provided by trained individuals and is documented.
 - (b) In-service education shall be sufficient to ensure the continuing competence of nurse aides and address areas of weakness as determined in nurse aides' performance reviews and shall address the assessed needs of residents as determined by their care plan. It also shall include, but is not limited to, training for nurse aides providing nursing and nursing-related services to residents with cognitive impairment. The in-service education for nurse aides working in specialty units shall address the assessed needs of the residents in the unit.
 - (c) The facility shall assure that each nurse aide receives at least twelve hours of formal in-service education each year and that each nurse aide who works in a specialty unit receives sufficient additional hours of training each year to ensure competency and to meet the special needs of the residents of that specialty unit. In-service education may be obtained through web-based training programs. For purposes of this paragraph, the year within which a nurse aide must receive continuing education is calculated based on the commencement of employment.

- (d) The facility shall maintain a written record of each formal in-service session which shall include a description of the subject matter, the identity of the individual or individuals providing the in-service education, a list of the nurse aides and other individuals attending the session that is signed by each attendee and the duration of the session.

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