



**Franklin J. Hickman  
Janet L. Lowder  
David A. Myers  
Elena A. Lidrbauch  
Sandra J. Buzney  
Judith C. Saltzman  
Mary B. McKee  
Amanda M. Buzo  
Lisa M. Garvin  
Andrea Aycinena**

**Penton Building  
1300 East Ninth Street  
Suite 1020  
Cleveland, OH 44114  
Telephone (216) 861-0360  
Fax (216) 861-3113**

**5062 Waterford Dr.  
Sheffield Village, OH 44035  
Telephone (440) 323-1111  
Fax (440) 323-4284**

**COMPENDIUM OF LICENSURE/CERTIFICATION REQUIREMENTS  
FOR CONGREGATE LIVING ARRANGEMENTS IN OHIO**

Franklin J. Hickman  
Andrea Aycinena  
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## I. Homes Serving Individuals With DD – Overview

The following types of facilities and residential services are available to individuals with developmental disabilities (“DD”) and are discussed in detail in the next sections:

- Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) – these are facilities which are funded through the Medicaid program and are subject to federal and Ohio regulations.
- Facilities licensed under RC 5123.19 – these include ICFs/MR and homes for individuals with DD, which are funded through other sources. Licensed facilities are subject to Ohio statutes and regulations.
- Supported Living. This Ohio program was originally created to provide state funding for residential services for individuals with DD and is subject to Ohio statutes and regulations. Staff providing services under Supported Living must be certified by the Ohio Department of Developmental Disabilities (“DoDD”) unless the facility is licensed under RC 5123.19. Supported Living principles and certification standards are applied to all providers of residential and waiver services.
- Residential services are funded through Medicaid Waivers. Services funded through the Waiver Program allocate funds to individuals who qualify under Medicaid standards. Individuals use the funds to obtain specified services, such as homemaker-personal care, vocational and transportation, which are included in their Individual Service Plans. Medicaid Waivers do not pay for room or board; payment for room and board must come from the individual (e.g., through SSI or SSDI) or other resources. Medicaid Waiver services are provided by staff who must be certified through the Ohio DoDD and who enter into provider agreements with the Ohio Department of Job and Family Services (“ODJFS”). Waiver providers must also be certified under Supported Living Standards.

County Boards of DD have responsibility to ensure the health, safety and welfare of individuals receiving residential services through the DD Boards. Ohio statutes require DD Boards to “monitor the [Medicaid-supported Waiver] services provided to the individual [with DD] and ensure the individual’s health, safety and welfare.” RC 5126.055(A)(4). One major tool for implementing this duty is Service and Support Administration (“SSA”) services (similar to case management services) which DD Boards must provide to all county residents on waivers, to others upon request and to residents of ICFs/MR during moves to the community. RC 5126.05(A)(8); RC 5126.15; OAC 5123:2-1-11(D). SSA workers must monitor the implementation of service plans for each individual (RC 5126.15(B)(7)) and verify that the plans are implemented in a manner to protect the health, safety and welfare of the individual. OAC 5123:2-1-11(N)(1)(a). This fundamental duty to protect health, safety and welfare is reiterated in OAC 5123:2-9-04(C)(9) which states that DD Boards “shall monitor the services provided to the individual to ensure the individual’s health, safety, and welfare.”

In order to obtain and maintain accreditation, DD Boards must develop and implement policies which “protect individuals from harm to self or others by creating safeguards for their

health and safety and the health and safety of others.” OAC 5123:2-4-01(C)(1)(f)(iii). The duty to protect the health and safety of individuals under a DD Board’s care is reiterated in the requirements applicable to residential services which the DD Board provides. RC 5126.01(O).

## **II. Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)**

### **A. Brief Definition**

An Intermediate Care Facility for the Mentally Retarded (ICF/MR) is a facility which provides health or rehabilitative services for individuals with DD and which meets federal standards for ICFs/MR. Individuals in ICFs/MR must receive active treatment.

### **B. Maximum number of Residents**

ICFs/MR vary in size from small family-style homes to large institutional settings. Ohio rules set a maximum on the total number of ICF/MR beds in the state; licensure rules applicable to ICFs/MR limit any change in configuration of existing beds to a maximum of eight. OAC 5123:2-16-01(I)(4)(b).

### **C. Requirements for Certification and Licensure**

An ICF/MR must have all of the following:

- a provider agreement with Ohio Department of Job and Family Services (“ODJFS”)<sup>1</sup> which agreement meets requirements of OAC 5101:3-3-02 (RC 5111.21(A)(1)); and
- ICF/MR certification (42 U.S.C. 1396a(a)(31); 42 C.F.R. 442.12(a), 442.101; OAC 5101:3-3-02.3), which is a condition of receiving a provider agreement. The Ohio Department of Health (ODH) conducts surveys on behalf of ODJFS for certification and compliance with the Federal Standards; and
- a residential facility licensed through DoDD in accordance with requirements of RC5123.19 and OAC Chapter 5123:2-3 (42 C.F.R. 483.410(e); RC5111.21(A)(2)).

### **D. Safety/Space Requirements**

ICFs/MR are subject to extensive Federal and Ohio requirements which address safety and the physical environment.

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<sup>1</sup> ODJFS is the single state agency responsible for over-all administration of the Medicaid program in Ohio. RC 5111.01. ODJFS delegates implementation of some parts of Medicaid to other cabinet departments, including DoDD, ODMH and ODADAS.

- Physical space requirements, including minimum bedroom size and requirements for other living spaces are at 42 CFR 483.470.
- Requirements for safety plans are at 42 CFR 483.470(h), including periodic evacuation drills for residents and staff 42 CFR 483.470(i).
- Fire Protection requirements are at 42 CFR 483.470(j).
- Monitoring requirements are at 42 CFR 483.440(f)(1).
- Requirements for reports of injuries or major unusual incidents are at 42 CFR 483.420(d)(2) and OAC5123:2-17-02(H).

### **E. Local Regulation**

The facility must be in compliance with all applicable provisions of Federal, State and local laws, regulations and codes pertaining to health, safety, and sanitation. 42 CFR 483.410(b).

### **F. Sources**

#### 1. Federal Requirements

42 USC 1396a (General Medicaid requirements for State Plans)  
42 USC 1396d (Definitions)  
42 CFR 483.400-480 (Rules applicable to ICFs/MR)

#### 2. State Requirements

RC 5111.21(A)(2); RC 5123.19(B) (Requirement for ICFs/MR to have state license)  
OAC 5101:3-3-02 (Elements for Provider Agreements with ODJFS)  
OAC Chapter 5123:2-3. (Licensure requirements applicable to ICFs/MR)

## **III. Licensed Facilities for Individuals with DD**

### **A. Brief Description**

RC 5123.19 requires the operator of every residential facility to have a license, with certain exceptions. A residential facility means a home or facility in which an individual with DD resides, except the home of a relative or legal guardian in which the individual with DD resides, a respite care home certified under RC 5126.05, or dwelling where individuals with DD are in an independent living arrangement or are being provided Supported Living.

All ICFs/MR must be licensed under Ohio law as well as certified under Federal requirements.

Licensure rules do not apply to facilities licensed by ODH under RC 3721.02 and 3722.04, to children's facilities certified under RC 5103.03 or to psychiatric hospitals licensed under RC 5119.20.

### **B. Maximum Number of Residents**

Ohio rules limit new development or reconfiguration of existing licensed beds, including conversion of ICF/MR beds to state-supported beds, to a maximum of four in any facility. OAC 5123:2-16-01(I)(4)(c). There is a state-wide cap on the number of permissible licensed beds for individuals with DD. RC 5123.196; OAC 5123:2-16-01(D).

### **C. Safety/Space Requirements**

Licensure rules are at OAC Chapter 5123:2-3.

- The licensee shall monitor the physical and psychological health of individuals and coordinate and arrange timely access to needed and preventative evaluations and treatments. OAC 5123:2-3-04(F).
- Minimum area requirements for bedrooms and other living spaces are at OAC 5123:2-3-10(D).
- Requirements for structural and interior safety/maintenance are at OAC 5123:2-3-10(E).
- Fire Safety and Evacuation requirements are at OAC 5123:2-3-11. The purpose of the rule is "to ensure the safety of individuals residing in residential facilities by establishing standards for fire safety, responses to weather emergencies, natural disasters or any emergency that may require the physical evacuation or relocation of individuals in a residential facility. The outcome for each individual would be that he/she would be able to safely respond in the event of fire, weather emergencies, natural disasters, or any other emergency." Requirements include:
  - Development of an emergency plan, and at least six fire safety drills during each 12-month period. These drills must be conducted during morning, afternoon/evening and sleeping periods. One physical evacuation of the premises must occur every 12 months.
  - Smoke detectors and appropriate fire alarm systems for homes with five or fewer residents.
  - Sprinkler systems for homes with six or more residents. The type of system varies depending on the number of residents. A sprinkler system is required for homes with less than six if the individuals cannot be safely evacuated in three minutes or less.

- Staff must be trained in safety procedures within 30 days of hire and must have at least annual training thereafter.
- Individual residents must be trained in emergency procedures within 30 days of moving in and annually thereafter.

#### **D. Local Regulation**

In applying for a license, the licensee must submit proof of approved inspections from:

- A building safety inspection by a local building inspector or the Ohio division of factory and building if the residential facility serves six or more individuals is required for initial licensure;
- A heating and wiring inspection in lieu of the building inspection by a certified electrician or bona fide heating company if the residential facility serves five or less individuals is required only for initial licensure;
- A fire safety inspection by a local fire department, state fire marshal or person certified by the state fire marshal's office; and
- A sanitation inspection by ODH or by a county or municipal health department if the residential facility is not served by a public water or sewage system. OAC 5123:2-3-02(F)(4).

The licensee must comply with all applicable local regulations. OAC 5123:2-3-04.

#### **E. Sources**

RC 5123.19 – Licensure required; OAC Chapter 5123:2-3 – Licensure rules

#### **IV. Supported Living Homes**

##### **A. Brief Description**

The Supported Living program was created under Ohio law and is funded through state and local sources. Supported Living allows for residential services from certified agencies and persons. Family Consortiums operate under the Supported Living rules; Family Consortiums are associations of family members formed to provide residential services to persons related to members of the consortium. Other than Family Consortiums, there are relatively few homes which are supported through this program; most have been replaced by Medicaid Waivers. Individuals served in facilities funded by supported living have broad authority to select qualified providers.

The term “Supported Living” often includes both Medicaid Waivers (discussed in next section) and non-Medicaid residential services for four or fewer residents. Supported Living often refers to a residential model which may be funded either privately or through waivers. The system generally applies the Supported Living principles to waivers.

##### **B. Maximum Number of Residents**

No more than four individuals can live together and receive Supported Living Funding. OAC 5123:2-12-04(A).

##### **C. Safety/Space Requirements**

OAC 5123:2-12-01 establishes housing and safety requirements.

##### **D. Sources**

ORC 5123.16 – 5123.169 (SL requirements)  
ORC 5126.01(U) (SL definition)

OAC 5123:2-2-01 (Certification requirements)  
OAC Chapter 5123:2-12 (SL rules)

## **V. Medicaid Supported Waivers for Individuals with DD**

### **A. Brief Description**

Ohio established a variety of programs designed to minimize use of institutions such as nursing homes and ICFs/MR by allowing services to be provided in the community to those who would otherwise need the services of an institutional setting. These programs are funded through Federal Medicaid with state/local public matching funds, and are referred to generally as “Waiver” programs.

The DoDD administers Individual Options (“IO”) Waivers for individuals with DD which provide a variety of supports for individuals who would otherwise be placed in an ICF/MR. Some of the services/supports under the IO Waivers include homemaker/personal care (covers supervision of daily living activities), vocational/employment training and Adult Foster Care (allows Waiver funding when the provider resides with the individuals being served). The overriding requirement for services is whether the service is necessary to protect health, safety and welfare of the individual. As of 2010, there are 17,500 IO Waiver slots available in Ohio.

Waiver funding is not facility-based; if an individual qualifies and a waiver slot is available, the individual is able to access funding for covered services defined in the individual’s service plan. The funding remains available to the individual regardless of where the individual lives, whether alone in an apartment, or with one or more roommates in an apartment or house.

Qualified individuals who receive waiver funding must select a qualified, willing provider to provide the services specified in the plan. Each provider must be certified through DoDD and must also have a Provider Agreement with ODJFS. The waiver program does not specify conditions for housing of individuals receiving the IO Waiver. Federal and Ohio law stress the fundamental importance of allowing eligible individuals to choose any qualified provider for Medicaid services.

### **B. Maximum Number of Residents**

General IO Waiver rules do not set a limit on the number of individuals living together and receiving Waiver funding. DoDD policy incorporates the Supported Living limit of four individuals who receive IO Waivers in any one residential setting. Any group of more than four individuals receiving waivers must be licensed under RC 5123.19.

Waiver-supported Adult Foster Care rules state that a provider cannot serve more than three individuals without being licensed under RC 5123.19. If the provider is operating under a license, the provider cannot serve more than four individuals under Adult Foster Care. OAC 5123:2-13-06(C)(1) and (C)(2).

### **C. Provider Certification**

A person or agency seeking to provide waiver services must have a Provider Agreement with ODJFS (RC 5111.871 and OAC 5101:3-1-17(A), OAC 5101:3-1-172; OAC 5101:3-40-01(J)(2)) and must be certified by DoDD RC 5123.045, 5123.16, 5123.161; OAC 5101:3-40-01(B)(7). A provider must be certified under the Supported Living Certification rules and separately certified for each type of waiver service. OAC 5123:2-2-01(L)(1). Certification standards are at OAC Chapter 5123:2-13.

### **D. Sources**

OAC 5101:3-40-01 – IO Waiver requirements  
OAC Chapter 5123:2-9. – General requirements for Waivers  
OAC Chapter 5123:2-13. – Certification Standards for IO Waiver  
OAC 5123:2-2-01 – Supported Living Certification Standards

## **VI. Adult Care Facility (ACF)**

### **A. Brief Definition**

Any residence, facility, institution, hotel, congregate housing project, or similar facility which is licensed by ODH and provides housing and limited personal services for 3 to 16 adults who typically need a high level of care but retain some level of independence, and at least 3 of which require personal care services.

There are two types of ACFs: Adult Family Homes (house 3-5 unrelated adults), and Adult Group Homes (house 6-16 unrelated adults).

ACF requirements do not apply to

- residential facilities licensed under RC 5123.19 or otherwise regulated by DoDD or
- other facilities which are separately licensed or certified.

### **B. Max No. Residents**

- *Adult family home* - provides accommodations and supervision to 3 to 5 unrelated adults; at least 3 require personal care services.
- *Adult group home* - provides accommodations and supervision to 6 to 16 unrelated adults; at least 3 require personal care services.

### **C. License/Certification**

License is required. Operator must submit application seeking license to ODH on ODH

form.

1. *Adult Group Home* – need evidence of inspection/approval by local certified building department or by division of labor in department of commerce (space and occupancy) and state fire marshal or fire prevention officer (fire prevention and safety).
2. *Adult Family Home* - do not need evidence of inspection/approval by building and fire entities but ODH must inspect for compliance with requirements.

ACF cannot accept more than 2 residents before receiving license. ODH may waive licensing requirements upon written request if strict application of licensing requirement would cause undue hardship and health/safety of resident not jeopardized. No single facility may be licensed to operate as more than one ACF.

RC 3722.02.

#### **D. Safety/Space Req's**

- **Fire protection standards** for *Adult Family Homes*—OAC 3701-20-10 lays out specific fire safety requirements, such as: a written evacuation procedure explained to each resident and posted on each floor; all employees trained in fire emergency and evac procedures within 3 days of employment; special evac plan for impaired residents; Smoke detectors on each floor/bedroom hallways; requirements for fire extinguishers; prohibition of electrical/heating items; non-ambulatory individuals' bedrooms must be on ground floor.
- **Safety requirements** for *Adult Group Homes*—OAC 3701-20-11 requires: a written evacuation procedure explained to each resident; employees trained in facility fire emergency/evac procedures and how to secure emergency assistance in fire, medical emergency, and other crises within 3 days of employment; locate non-ambulatory individual's bedrooms on a floor that exits to ground level.
- **Space, equipment, safety, and sanitation**—OAC 3701-20-22 sets forth required communal living/dining areas, minimum floor space, number of residents per bedroom, placement of furniture for safety, location of bedrooms; OAC 3701-20-12 sets forth water, sewage and plumbing requirements for adult care facilities; OAC 3701-20-13 sets forth facility management responsibilities.

#### **E. General staffing requirements—OAC 3701-20-14**

Minimum– at least 1 staff member at all times if resident requires: on-going supervision; assistance with walking, moving, bathing, toileting, dressing or eating; is non-ambulatory; prescribed more than one medication taken on “required” or PRN basis; assistance with self-medication; or if facility locked and residents do not have keys.

In addition, each ACF is required to have sufficient number of staff members and appropriate scheduling of staff time to meet care and supervisory needs of residents in timely manner and provide necessary meal preparation, housekeeping, laundry, and home maintenance for the residents.

## **F. Sources**

RC Chapter. 3722.  
OAC 3701-20-01 *et seq.*

## **VII. Residential Facility For Mentally Ill Persons (5119.22)**

### **A. Brief Definition**

"Residential facility" means a publicly or privately operated home or facility that provides one of the following:

- *Type I* - Room and board, personal care services, and community mental health services to 1 or more persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.
- *Type II* - Room and board and personal care services to one or two persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

*Type III* - Room and board to five or more persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

### **B. License/Certification**

Every person operating a a publicly/privately operated residential home/facility serving individuals with mental illness must apply for licensure to the Ohio Department of Mental Health ("ODMH"). ODMH can issue three types of Residential Facility Licenses according to whether the facility is Type I, Type II or Type III (see "Brief Definition" above). Procedures are at OAC 5122-30-04 to OAC 5122-30-07.

### **C. Max No. Residents**

ODMH must determine the maximum number of residents for which each facility is licensed and state it on the license. Maximum number of residents must not exceed the number specified on

the license. Number is based on resident sleeping space, living space, adequate toilet, lavatory, and bathing facilities. See OAC 5122-30-09.

#### **D. Safety/Space Requirements**

- Safety –OAC 5122-30-12: Sets forth rules on fire safety requirements, such as number of fire extinguishers, smoke detectors, number of residents to require fire alarm system, disaster plans, employee training, requirements for non-ambulatory residents;
- 3. **Sleeping and living space** – OAC 5122-30-14 requires min. 80 sq. ft. per resident for single occupancy bedroom; min 60 sq. ft. per resident in multi-occupancy bedroom; no more than 4 residents to bedroom; bed/bedding requirements; bedroom build-out requirements; drawer/closet space requirements; community space requirements, facility requirements, etc.
- 4. **Housekeeping and property maintenance** – OAC 5122-30-15 sets forth standards regarding cleanliness, temperature, and insects/pests.
- 5. **Requirements for persons with disabling conditions**—OAC 5122-30-18 sets forth equipment requirements to meet needs of residents with physical disabilities or disabling conditions, such as telecommunications decoders, Braille communication systems, alarms, lights, safety equipment required by certified state/local fire official and/or ODMH.

#### **E. Staffing Requirements**

6. Qualifications of staff—OAC 5122-30-20.
7. Staffing requirements for Type II facilities—OAC 5122-30-21.
8. Staffing requirements for provision of mental health services in type 1 facilities—OAC 5122-30-30.

#### **F. Sources**

RC 5119.22

OAC 5122-30-01 to OAC 5122-30-30.

## VIII. Alcohol And Drug Addiction Residential Treatment Program

### A. Brief Definition

Program providing alcohol or drug addiction services and includes a facility or entity that operates such a program. A residential treatment program functioning as a residential facility must be licensed as a type of residential facility for the mentally ill by ODMH and then certified as an Alcohol and Drug Addiction Residential Program. *See Section VII above for types of residential facilities and licensure requirements.*

9. **Residential Treatment Program** [OAC 3793:2-5-01(C)] must provide on-site:

- (a) Structured alcohol/drug addiction services /activities at least 30 hrs for adults and 20 hrs for adolescents per 7-day week;
- (b) Individual and/or group counseling services at least 5 days/wk;
- (c) Housing: 24 hrs/day, 7 days/wk; Food: min. 3 balanced meals/day, 7 days/wk;
- (d) Opportunity for clients to get 8 hrs of sleep per night; and
- (e) A staff member who is at the program site to actively supervise and monitor clients 24 hrs/day, 7 days/wk.

10. **Halfway House Treatment Program** [OAC 3793:2-5-01(D)] must provide on-site (*unless otherwise noted*):

- (f) Structured alcohol/drug addiction services/activities at least 10 hrs per 7-day week;
- (g) Individual and/or group counseling services at a *certified program site of the agency* at least 2 days/wk;
- (h) Housing: 24 hrs/day, 7 days/wk; Food: min. 3 balanced meals/day, 7 days/wk;
- (i) Opportunity for clients to get eight hrs of sleep per night; and
- (j) A staff member at program site to monitor clients 24 hrs/day, 7 days/wk.

Each program must provide non-medical community residential level of care (i.e., 24 hr rehabilitation without 24 hr/day medical/nursing monitoring). OAC Ann. 3793:2-5-01(G).

A program that has 24 hrs/day nursing and medical staff may provide 1 or more of the following levels of care: (1) Medical community residential (see OAC 3793:2-1-08 (U)); (2) 23 hr observation bed; and/or (3) Sub-acute detoxification. OAC Ann. 3793:2-5-01(H).

**B. Max No. Residents**

See Residential Facilities Treating Mental Illness, Section I.C above.

**C. License/Certification**

Licensing: See Residential Facilities Treating Mental Illness, Section I.B above.

Certification: ODADAS must evaluate and certify all alcohol and drug addiction programs in Ohio. No program is eligible to receive state or federal funds without certification. RC 3739.06(A).

OAC 3793:2-1-01 sets forth the program certification/licensure requirements for alcohol/drug treatment programs as well as any variances. Applicable to, among others, alcohol and drug addiction residential treatment programs, public and private, regardless of whether receive public funds that originate and/or pass through ODADAS in accordance with RC 3739.06(A).

OAC 3793:2-5-01 sets forth the minimum requirements for a program to be certified by ODADAS as an alcohol and drug addiction services residential treatment program.

**D. Safety/Space Requirements**

See Residential Facilities for Mentally Ill Persons, Section I.D above.

**E. References**

RC 3793.01 *et seq.*

OAC 3793:2-1-01 *et seq.*

## **IX. Community Residential Care for Veterans**

### **A. Brief Description**

Community Residential Care is available for veterans who do not need hospital or nursing home care but are unable to live independently because of medical (including psychiatric) conditions and have no suitable family resources to provide needed monitoring, supervision, and any necessary assistance in daily living activities.

### **B. Maximum Number of Residents**

None specified but facility must meet space requirements for residents.

### **C. Requirements for Approval**

Home must be approved by VA after inspection in accordance with requirements of 38 CFR 17.63. See 38 CFR 17.65.

### **D. Safety/Space Requirements**

- Homes must meet the requirements of chapters 1-11, 32-33, and 43 and Annex A of the NFPA 101, the National Fire Protection Association's Life Safety Code Handbook, Tenth Edition (2006 Edition), and NFPA 101A, Guide on Alternative Approaches to Life Safety (2007 Edition). 38 CFR 17.63(a)(2).
- Interior spaces and minimum bedroom size are at 38 CFR 17.63(c). Specifications based only on number of residents.
- Sufficient, qualified staff must be on duty and available to care for the resident and ensure the health and safety of each resident. 38 CFR 17.63(j). There must be sufficient staff to assist patients in the event of fire or other emergency. 38 CFR 17.63(a)(2).

### **E. Local Regulation**

Veterans' Home must meet all State and local regulations including construction, maintenance, and sanitation regulations. 38 CFR 17.63(a)(1).

### **F. Sources**

38 CFR 17.61 – 72.

## **X. Nursing Homes**

### **A. Brief Definition**

An institution, residence, or facility that provides, for a period of more than 24 hrs, whether for a consideration or not, accommodations and care to 3 or more unrelated 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.

### **B. Max No. Residents**

ODH must determine type and number of residents a home can accommodate which will be the authorized maximum licensed capacity of the nursing home. Factors include: physical facilities, personnel, services and care needed by residents, and the permitted occupancy approved by department of commerce. OAC 3701-17-04.

### **C. License/Certification**

A Nursing Home must be licensed by ODH to provide personal care services and skilled nursing care. Every Person (or superintendent of county/district home) wanting to operate a home must apply to the Director of Health.

May be licensed as both Nursing Home and Adult Care Facility (See Sec. VI above), if nursing home can be maintained in separate and discrete part of the facility.

### **D. Safety/Space Req's**

Minimum space requirements for occupants and equipping of buildings rules must be consistent with RC Chs. 3781. and 3791.

- Personnel requirements – OAC 3701-17-07 *et seq.*
- Space requirements – OAC 3701-17-23

### **E. Local Regulation**

Sections of Ch. 3721.02, 3721.03, 3721.04, 3721.05, 3721.051, 3721.07, and 3721.08 and corresponding regulations do not apply in political subdivisions which are certified (annually) by the Director of Health to have adopted and are enforcing standards equal to or greater in requirements than those of the above statutory sections.

### **F. Sources**

State: ORC CH. 3721.; OAC 3701-17-01 *et seq.*; Federal: 42 U.S.C. 301.

## **XI. Residential Care Facility for Nursing services**

### **A. Brief Definition**

An institution, residence, or facility that provides, for a period of more than twenty-four (24) hrs, whether for a consideration or not, *either*:

11. Accommodations for seventeen (17) or more unrelated individuals and supervision and personal care services for three (3) or more of those individuals who are dependent on the services of others by reason of age *or* physical or mental impairment;
12. Accommodations for three (3) or more unrelated individuals, supervision and personal care services for at least three (3) 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 RC 3721.011.

### **B. Max No. Residents**

The building(s) in which a residential care facility is located must be approved and have a certificate of occupancy issued by the local certified building department with jurisdiction over the area in which the building(s) is located or by the department of commerce if there is no local certified building department. OAC 3701-17-63(A).

### **C. License/Certification**

Home must be licensed by ODH to provide personal care services and skilled nursing care.

An operator who operates one or more residential care facilities in more than one building shall obtain a separate license for each building except if such buildings are on the same lot and constitute a single residential care facility. OAC 3701-17-52(L).

### **D. Safety/Space Req's**

Minimum space requirements for occupants and equipping of buildings rules must be consistent with RC Chs. 3781. and 3791.

- Personnel requirements are in OAC 3701-17-54 and OAC 3701-17-55.
- Building, plumbing, and fire safety requirements are in OAC 3701-17-63.

Space requirements are in OAC 3701-17-64.

### **E. Sources**

RC CH. 3721. and OAC 3701-17-50 *et seq.*

## **XII. Adult Foster Home**

### **A. Brief Definition**

A residence, other than a residence certified or licensed by ODMH, in which accommodations and personal care services are provided to one or two adults (18 and above) who are unrelated to the owners of the residence.

### **B. License/Certification**

Homes must be certified by an Area agency on aging (“AAA”) under the Department of Aging. The AAA shall only certify a home as an adult foster home if it determines that home is compliant with all the standards set forth in OAC 173-36-04.1 to 173-36-04.5.

### **C. Safety Req’s**

- Fire safety inspections: process and standards.—OAC 173-36-04
- Operator standards—OAC 173-36-04.1
- Caregiver standards.—OAC 173-36-04.2
- First aid standards.—OAC 173-36-04.4
- Fire safety standards.—OAC 173-36-04.5

### **D. Space Req’s**

Facility requirements are at OAC 173-36-04.3.

### **E. Sources**

RC 173.36 and OAC 173-36-01 *et seq.*

### **XIII. General Certification Requirements for Placement of Children**

#### **A. Generally**

Institutions or associations that provide foster care, adoption and or residential services to and for children must be certified by the Ohio Department of Job and Family Services (ODJFS). ODJFS is charged with passing upon the fitness of such institutions or associations and ensuring their compliance with legal requirements governing their management.

An “institution” or “association” INCLUDES:

- an incorporated or unincorporated organization, society, association, or agency (public or private) that receives or cares for children for 2 or more consecutive weeks;
- an individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children (unrelated to them by blood or marriage) for 2 or more consecutive weeks, unless the individual is; and
- an individual not in the regular employ of a court, or an institution or association certified by ODJFS, who becomes a party to the placing of children in foster homes (unless related to children by blood or marriage, or appointed guardian)

However, they DO NOT INCLUDE:

- an individual who provides care for only a single-family group, placed there by their parents or other relative having custody; OR
- an organization, association, agency, clinic, etc., licensed, regulated, approved, operated under the direction of, or otherwise certified by ODE or a local Board of Ed., the Department of Youth Services (DYS), ODMH, or DoDD.
  - UNLESS, it undertakes activities (i.e., placing children in foster homes) that exceed those for which it was granted a license or certification by one of those agencies

#### **B. Certification Process/Requirements**

CERTIFICATION BY ODJFS REQUIRED for an institution or association that meets the definition in Section XIII.A.

- Valid for 2 years, unless revoked sooner by ODJFS
- ODJFS may revoke certification if institution or association is in violation of law or rule
  - No juvenile court can commit/place a child there if certificate revoked or, if after revocation, date of reissue is less than 15 months before proposed commitment/placement.
- Temporary certificate may be issued for less than 1 year until minimum requirements have been met.
- To become certified or recertified, entity must submit a report to ODJFS, every 2 years (date specified by ODJFS), showing condition, management, competency to care

adequately for the children, the system of visitation it employs, and any other information required by ODJFS.

#### **XIV. Child Care Agencies**

Public Children Services Agency (PCSA) - Specific functions which require certification are to operate: children's residential center(s); group home(s); independent living arrangements (or to provide them); residential parenting facilities; and children's crisis care facilities

Private Child Placing Agency (PCPA) - specific functions which require certification are:

1. To operate: children's residential center(s); group home(s); independent living arrangements (or to provide them); residential parenting facilities; and children's crisis care facilities;
2. To act as a representative of ODJFS in recommending for certification: pre-adoptive infant foster homes; family foster homes; treatment foster homes; medically fragile foster homes;
3. To accept temporary, permanent or legal custody of children; and
4. To place children for foster care or adoption.

Private Noncustodial Agency (PNA), or a local public entity that is not a PCSA - Specific functions which require certification are:

1. To operate: children's residential center(s); group home(s); independent living arrangements (or to provide them); residential parenting facilities; and children's crisis care facilities;
2. To act as a representative of ODJFS in recommending for certification: pre-adoptive infant foster homes; family foster homes; treatment foster homes; medically fragile foster homes; and
3. To participate in the placement of children in foster homes or for adoption.

During a complaint investigation or review of an agency acting as representative of ODJFS in recommending foster homes for certification, ODJFS may inspect any foster home recommended for certification by the agency. The inspection may be announced or unannounced. OAC 5101:2-5-03(G).

An agency may voluntarily terminate certification of any or all of its authorized functions upon written notice to ODJFS. OAC 5101:2-5-03(H).

## XV. Children's Foster Homes

### A. Brief Definitions

Foster home - private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children non-secure care, supervision, or training 24 hours a day. Does not include care provided for a child in the home of another while the parent, guardian, or legal custodian is temporarily away. ORC 5103.02(D); OAC 5101:2-1-01(B)(93).

### B. Main Types:

1. Family foster home - foster home that is not a specialized foster home. ORC 5103.02(B); OAC 5101:2-1-01(B)(84).
2. Specialized foster home - a medically fragile foster home or a treatment foster home. ORC 5103.02(G); OAC 5101:2-1-01(B)(229).
  - a. Medically fragile foster home - foster home providing specialized medical services designed to meet the needs of children with intensive health care needs who meet all of the following criteria:
    - i. require a skilled level of care under rules adopted by ODJFS governing payment under ORC Chapter 5111. for long-term care services;
    - ii. require the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of their medical conditions;
    - iii. require the services of a registered nurse on a daily basis;
    - iv. are at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.  
ORC 5103.02(E); OAC 5101:2-1-01(B)(145)
  - b. Treatment foster home - foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, mentally retarded, or developmentally disabled, or who otherwise have exceptional needs. ORC 5103.02(H); OAC 5101:2-1-01(B)(257)

### C. Maximum No. Residents

No more than 5 children (apart from parents, guardian or custodian) may be received, except:

- To accommodate sibling group /remaining members of sibling group;
- When additional child(ren) related to foster caregiver by blood/marriage;
- When additional child(ren) are foster children who previously resided in foster home; or
- When additional child(ren) are child(ren) of foster child who resides in home.

#### **D. Safety Requirements**

Site and safety requirements for a foster home – OAC [5101:2-7-12](#): Sets forth safety requirements for all structures in and on the grounds of the home, including outdoor recreation equipment, water areas, open pits/wells, cliffs/caves, etc.; requirements for hazardous chemicals/materials, weapons; smoke detectors, fire escape plan, smoke-free environment, among others.

#### **E. Caregiver / Home Requirements**

Required to comply with rules regarding the following:

- General requirements for foster caregivers and applicants – OAC 5101:2-7-02
- Records and confidentiality – OAC [5101:2-7-04](#)
- [Sleeping arrangements](#) – OAC 5101:2-7-05
- Meals – OAC 5101:2-7-06
- Care, supervision and discipline – OAC 5101:2-7-09
- Health services – OAC 5101:2-7-07
- Alternative Care Arrangements – OAC 5101:2-7-08
- Transportation – OAC 5101:2-7-15

Additional requirements for a treatment foster caregiver and a treatment foster home – OAC 5101:2-7-16

Additional requirements for a medically fragile foster caregiver and a medically fragile foster home – OAC 5101:2-7-17

#### **F. Application of Zoning Laws**

Any certified foster home must be considered to be a residential use of property for purposes of municipal, county, and township zoning and must be a permitted use in all zoning districts in which residential uses are permitted.

No municipal, county, or township zoning regulation can require a conditional permit or any other special exception certification for any certified foster home.

#### **G. Sources**

ORC 5103.02 *et seq.*  
OAC 5101:2-7 *et seq.*

## **XVI. Children's Residential Centers, Group Homes, Residential Parenting Facilities**

### **A. Brief Definitions**

Children's Residential Center (CRC) - a facility in which eleven or more children, including the children of any staff residing at the facility, are given non-secure care and supervision 24 hours a day. OAC 5101:2-1-01(B)(47).

Group Home - a public or private facility which provides placement services for children and is licensed, regulated, approved, operated under the direction of, or otherwise certified as a group home by ODJFS, ODE, a local board of education, ODYS, ODMH, a county board of MH, ODoDD, a county board of DD, or a political subdivision. OAC 5101:2-1-01(B)(94).

Group Home for Children – A “group home”, public or private, which meets all of the following criteria:

- Gives a maximum of 10 children, including the children of the operator or any staff who reside in the facility, non-secure care and supervision 24 hours a day for hire, gain, or reward by a person or persons who are unrelated to such children by blood or marriage, or who is not the appointed guardian of such children (NOT an individual who provides care for children from only a single-family group, placed there by their parents or other relative having custody);
- Is not certified as a foster home; AND
- Receives or cares for children for 2 or more consecutive weeks.

OAC 5101:2-1-01(B)(95)

Residential Care Facility - an institution, residence, or facility licensed by ODMH under ORC 5119.22 and that provides care for a child. OAC 5101:2-1-01(B)(216).

Residential Facility - a group home, children's crisis care facility (OAC 5101:2-9-36), children's residential center (CRC), or residential parenting facility where 24 hour child care is provided by child care staff employed or contracted by an agency. NOT a foster home. OAC 5101:2-1-01(B)(217)

Residential Parenting Facility - a facility in which teenage mothers and their children reside for the purpose of keeping mother and child together, teaching parenting and life skills to the mother, and assisting teenage mothers in obtaining educational or vocational training and skills. OAC 5101:2-1-01(B)(218).

## **B. Staffing Requirements**

- Staffing Requirements – OAC 5101:2-9-02
- Staff Development and evaluation – OAC 5101:2-9-03

## **C. Safety Requirements (Bldg/Children)**

- General Maintenance of Residential Facility – OAC 5101:2-9-04
- General Safety – OAC 5101:2-9-06
- Emergency Planning and Preparedness – OAC 5101:2-9-07
- Fire Safety – OAC 5101:2-9-08
- [Emergency medical plan and first aid supplies](#) – OAC 5101:2-9-09
- [Storage of hazardous materials](#) – OAC 5101:2-9-10
- [Notification and documentation of critical incidents](#) – OAC 5101:2-9-23
- [Group home and residential parenting facility location and programmatic requirements for residential parenting facilities](#) – OAC 5101:2-9-25

## **D. Space Requirements**

- [Living rooms and lounges](#) – OAC 5101:2-9-26: Each living unit of CRC required to have at least 60 sq. ft. of activity space per resident child, exclusive of bedrooms, bathrooms, halls, etc.; must include areas equipped with sofas, armchairs, tables and recreational equipment; exceptions subject to approval by ODJFS
- [Dining areas](#) – OAC 5101:2-9-27: Residential facility must have at least one area specifically used for dining; if CRC has dining area in living unit – table and seating must be of sufficient size and number so that all children may eat together comfortably at one time; if dining area separate from living unit, then 50% of children must be able to sit and eat comfortably together at one time; tables and chairs must be appropriate to age, physical condition, and developmental stage of children in home.
- [Bedrooms](#) – OAC 5101:2-9-28:
  - CRC: must have 74 sq. ft for initial occupant + 50 sq. ft. for each additional occupant, and ceiling height of at least 7 ft., 6 in.; CRC or group home – must sleep children of same sex
  - Residential facility: sleep maximum four children; must not permit non-ambulatory children to sleep above the entry level of a building, unless facility is specifically approved for such children by the state fire marshal or a local certified fire safety inspector; each bedroom must have at least one outside wall window, screened and capable of opening and closing, unless ventilation system providing regular change of fresh air.

- Each CRC, group home or residential parenting facility utilizing live-in child care staff must provide staff with separate sleeping space
- Also sets forth requirements for bed size, use of bunk beds, cribs, etc., and standards for sheets, pillows.
- Bathrooms– OAC 5101:2-9-29: sets forth requirements for minimum number of wash basins, toilets, showers with hot and cold water per number of children; location of bathrooms in each type of home; supplies and safety precautions.

Additional Requirements for:

- Kitchens and kitchen supplies – OAC [5101:2-9-30](#)
- Laundry facilities – OAC [5101:2-9-31](#)
- Building approval – OAC 5101:2-9-34
- [Additional requirements for Children's Crisis Care Facilities](#) – OAC [5101:2-9-36](#).

**E. Sources**

ORC 5103.02 *et seq.*

ORC 5101:2-9 *et seq.*