

As Passed by the House

133rd General Assembly

Regular Session

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Am. H. B. No. 509

Representative Fraizer

Cosponsors: Representatives Ginter, Green, Carruthers, Crossman, Liston

A BILL

To amend section 3721.02 of the Revised Code 1
regarding expedited licensure inspection 2
procedures for residential care facilities. 3

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

Section 1. That section 3721.02 of the Revised Code be 4
amended to read as follows: 5

Sec. 3721.02. (A) As used in this section, "residential 6
facility" means a residential facility licensed under section 7
5119.34 of the Revised Code that provides accommodations, 8
supervision, and personal care services for three to sixteen 9
unrelated adults. 10

(B) (1) The director of health shall license homes and 11
establish procedures to be followed in inspecting and licensing 12
homes. The director may inspect a home at any time. ~~Each~~ 13

Each home shall be inspected by the director at least once 14
prior to the issuance of a license and at least once every 15
fifteen months thereafter. The state fire marshal or a township, 16
municipal, or other legally constituted fire department approved 17
by the marshal shall also inspect a home prior to issuance of a 18

license, at least once every fifteen months thereafter, and at 19
any other time requested by the director. ~~A-~~ 20

A home does not have to be inspected prior to issuance of 21
a license by the director, state fire marshal, or a fire 22
department if ownership of the home is assigned or transferred 23
to a different person and the home was licensed under this 24
chapter immediately prior to the assignment or transfer. ~~A-In~~ 25
the case of a home that is licensed as a nursing home, the 26
nursing home does not need to be inspected before the director 27
increases the nursing home's licensed capacity if the beds being 28
added to the nursing home are placed in resident rooms that were 29
inspected, as part of the most recent previous inspection of the 30
nursing home, for the same number of residents proposed to be 31
placed in a room after the capacity increase. ~~The-~~ 32

The director may enter at any time, for the purposes of 33
investigation, any institution, residence, facility, or other 34
structure that has been reported to the director or that the 35
director has reasonable cause to believe is operating as a 36
nursing home, residential care facility, or home for the aging 37
without a valid license required by section 3721.05 of the 38
Revised Code or, in the case of a county home or district home, 39
is operating despite the revocation of its residential care 40
facility license. ~~The-~~ 41

The director may delegate the director's authority and 42
duties under this chapter to any division, bureau, agency, or 43
official of the department of health. 44

(2) (a) ~~If, prior to issuance of a license, a home~~ The 45
inspection procedures established under division (B) (1) of this 46
section shall include a process for conducting expedited 47
licensing inspections. An expedited licensing inspection may be 48

requested by an applicant seeking a license for a new home or, 49
in the case of an existing home that is licensed as a 50
residential care facility, an applicant seeking approval to 51
increase or decrease the facility's licensed capacity or to make 52
any other change for which the director requires a licensing 53
inspection to be conducted. 54

If an applicant submits a request for an expedited 55
licensing inspection and the request is submitted in a manner 56
and form approved by the director, the director shall commence 57
~~an~~ the inspection of the home not later than ten business days 58
after receiving the request. 59

Any rules adopted by the director pursuant to section 60
3721.04 of the Revised Code to implement the requirements 61
described in division (B) (2) (a) of this section are not subject 62
to the requirements of division (F) of section 121.95 of the 63
Revised Code. 64

~~(b) On request, submitted in a manner and form approved by~~ 65
~~the director, the director may review plans for a building that~~ 66
~~is to be used as a home for compliance with applicable state and~~ 67
~~local building and safety codes.~~ 68

~~(e) The director may charge a fee for an expedited~~ 69
licensing inspection ~~or a plan review~~ that is adequate to cover 70
the expense of expediting the inspection ~~or reviewing the plans.~~ 71
The fee shall be deposited in the state treasury to the credit 72
of the general operations fund created in section 3701.83 of the 73
Revised Code and used solely for expediting inspections ~~and~~ 74
~~reviewing plans.~~ 75

(C) A single facility may be licensed both as a nursing 76
home pursuant to this chapter and as a residential facility 77

pursuant to section 5119.34 of the Revised Code if the director 78
determines that the part or unit to be licensed as a nursing 79
home can be maintained separate and discrete from the part or 80
unit to be licensed as a residential facility. 81

(D) In determining the number of residents in a home for 82
the purpose of licensing, the director shall consider all the 83
individuals for whom the home provides accommodations as one 84
group unless one of the following is the case: 85

(1) The home is a home for the aging, in which case all 86
the individuals in the part or unit licensed as a nursing home 87
shall be considered as one group, and all the individuals in the 88
part or unit licensed as a ~~rest home~~ residential care facility 89
shall be considered as another group. 90

(2) The home is both a nursing home and a residential 91
facility. In that case, all the individuals in the part or unit 92
licensed as a nursing home shall be considered as one group, and 93
all the individuals in the part or unit licensed as ~~an adult~~ 94
~~care~~ a residential facility shall be considered as another 95
group. 96

(3) The home maintains, in addition to a nursing home or 97
residential care facility, a separate and discrete part or unit 98
that provides accommodations to individuals who do not require 99
or receive skilled nursing care and do not receive personal care 100
services from the home, in which case the individuals in the 101
separate and discrete part or unit shall not be considered in 102
determining the number of residents in the home if the separate 103
and discrete part or unit is in compliance with the Ohio basic 104
building code established by the board of building standards 105
under Chapters 3781. and 3791. of the Revised Code and the home 106
permits the director, on request, to inspect the separate and 107

discrete part or unit and speak with the individuals residing 108
there, if they consent, to determine whether the separate and 109
discrete part or unit meets the requirements of this division. 110

(E) (1) The director of health shall charge the following 111
application fee and annual renewal licensing and inspection fee 112
for each fifty persons or part thereof of a home's licensed 113
capacity: 114

(a) For state fiscal year 2010, two hundred twenty 115
dollars; 116

(b) For state fiscal year 2011, two hundred seventy 117
dollars; 118

(c) For each state fiscal year thereafter, three hundred 119
twenty dollars. 120

(2) All fees collected by the director for the issuance or 121
renewal of licenses shall be deposited into the state treasury 122
to the credit of the general operations fund created in section 123
3701.83 of the Revised Code for use only in administering and 124
enforcing this chapter and rules adopted under it. 125

(F) (1) Except as otherwise provided in this section, the 126
results of an inspection or investigation of a home that is 127
conducted under this section, including any statement of 128
deficiencies and all findings and deficiencies cited in the 129
statement on the basis of the inspection or investigation, shall 130
be used solely to determine the home's compliance with this 131
chapter or another chapter of the Revised Code in any action or 132
proceeding other than an action commenced under division (I) of 133
section 3721.17 of the Revised Code. Those results of an 134
inspection or investigation, that statement of deficiencies, and 135
the findings and deficiencies cited in that statement shall not 136

be used in either of the following:	137
(a) Any court or in any action or proceeding that is	138
pending in any court and are not admissible in evidence in any	139
action or proceeding unless that action or proceeding is an	140
appeal of an action by the department of health under this	141
chapter or is an action by any department or agency of the state	142
to enforce this chapter or another chapter of the Revised Code;	143
(b) An advertisement, unless the advertisement includes	144
all of the following:	145
(i) The date the inspection or investigation was	146
conducted;	147
(ii) A statement that the director of health inspects all	148
homes at least once every fifteen months;	149
(iii) If a finding or deficiency cited in the statement of	150
deficiencies has been substantially corrected, a statement that	151
the finding or deficiency has been substantially corrected and	152
the date that the finding or deficiency was substantially	153
corrected;	154
(iv) The number of findings and deficiencies cited in the	155
statement of deficiencies on the basis of the inspection or	156
investigation;	157
(v) The average number of findings and deficiencies cited	158
in a statement of deficiencies on the basis of an inspection or	159
investigation conducted under this section during the same	160
calendar year as the inspection or investigation used in the	161
advertisement;	162
(vi) A statement that the advertisement is neither	163
authorized nor endorsed by the department of health or any other	164

government agency. 165

(2) Nothing in division (F)(1) of this section prohibits 166
the results of an inspection or investigation conducted under 167
this section from being used in a criminal investigation or 168
prosecution. 169

Section 2. That existing section 3721.02 of the Revised 170
Code is hereby repealed. 171