

**\*\*\* DRAFT – NOT FOR FILING \*\*\***

3701-17-53      **Inspections and investigations; correction.**

- (A) The director shall inspect each residential care facility at least once prior to the issuance of a ~~Heensed~~ license, at least once every fifteen months and as the director considers necessary. The inspections may be announced or unannounced except that one unannounced inspection shall be conducted at least every fifteen months. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the fire marshal shall also inspect a residential care facility prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A residential care facility does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the facility is assigned or transferred to a different person and the facility was licensed under Chapter 3721. of the Revised Code as a residential care facility immediately prior to the assignment or transfer.
- (B) The director may investigate any complaint concerning a facility in accordance with sections 3721.031 and 3721.17 of the Revised Code.
- (C) An operator, administrator, staff member or any other person shall not:
- (1) Refuse to permit the director for the purpose of inspecting or investigating the operation of a residential care facility, to enter and inspect at any time a building or premise where a residential care facility is located, or to enter and inspect records, including resident medical records, which are kept concerning the operation of the residential care facility for information pertinent to the legitimate interest of the department.
  - (2) Use profane or abusive language directed at or in the presence of residents or the director.
- (D) When inspecting or investigating a residential care facility, the director shall respect the residents' privacy and dignity, cooperate with the residents, behave in a congenial manner toward the residents, protect the residents' rights, and behave in a cooperative and professional manner toward individuals working in the facility. The director or the director's designee shall:
- (1) Refrain from using language or behavior that is derogatory, insulting, intimidating, or threatening;
  - (2) Not harass or coerce residents or otherwise attempt to influence residents' responses to inquiries;
  - (3) Not make remarks or comparison, positive or negative, about another residential care facility or other residents;

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- (4) Not solicit, accept, or agree to accept from the residential care facility or a resident of the facility compensation, gratuities, gifts, or any other thing of value that is of such character as to manifest a substantial and improper influence upon the director or the director's designee with respect to ~~the director or the director's designee~~ their duties;
- (5) Obtain the resident's consent prior to conducting an evaluation of a resident unless a court has issued a search warrant or other order authorizing such an evaluation. When requesting the resident's consent to evaluate the resident, the director or the director's designee shall explain that:
- (a) The resident has the option to consent or not to consent to the evaluation;
  - (b) The resident will not be evaluated without the resident's consent;
  - (c) The resident may have another individual of the resident's choice present during the evaluation. If a resident requests that another individual be present during the evaluation and that individual is not available, the resident has not consented to the evaluation; and
  - (d) The resident will not suffer any adverse consequences if the resident refuses to consent.
- (E) The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the director or that the director has reasonable cause to believe is operating as a residential care facility without a valid license or in the case of a county or district home, is operating despite the revocation of its residential care facility license.
- (F) If an inspection reveals a violation or violations of Chapter 3721, of the Revised Code or of rules 3701-17-50 to 3701-17-68 of the Administrative Code, the director may provide the facility with the opportunity to correct the violation or violations.