

# Ohio Administrative Code for Residential Care Facilities: Select Regulations and Interpretations

## Links to applicable ODH Ohio Administrative Code RCF:

<https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/rules/final/3701-10-TO-19/3701-16/3701-16-08.pdf?la=en>

<https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/rules/final/3701-10-TO-19/3701-16/3701-16-091.pdf?la=en>

<https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/rules/final/3701-10-TO-19/3701-16/3701-16-10.pdf?la=en>

## Regulations and Interpretations\*:

### 3701-16-05

*(G) Each residential care facility which elects to supervise therapeutic diets shall provide or arrange for a dietitian and comply with the applicable requirements of rule 3701-16-10 of the Administrative Code.*

#### Interpretation:

**All RCF's that "supervise therapeutic diets" must employ a dietitian in some manner (consultant, employee etc.).**

### 3701-16-06

*(F) Staff members whose job responsibilities will include providing therapeutic diets, other than special diets, shall be trained by a dietitian prior to performing this responsibility.*

#### Interpretation:

**If a facility agrees to provide a resident a diet other than a special diet, the staff member providing the diet must be trained by a dietitian.**

**The type of diet driving this requirement would typically involve a diet that has a specific nutrient content (i.e.: 2000 mg sodium or 800 mg of phosphorous) or number in the name of the diet or a diet that implies more involved modifications.**

### 3701-16-07

*(D) A residential care facility shall enter into a written resident agreement with each prospective resident prior to beginning residency in the residential care facility. The agreement shall be signed and dated by the operator, administrator, or acting administrator and the prospective resident or, if the prospective resident is physically or cognitively unable to sign and consents, another individual designated by the prospective resident. The facility shall provide both the prospective resident and any other individual signing on the resident's behalf with a copy of the agreement and shall explain the agreement to them.*

The Resident Agreement has specifics on diet agreement, and requires signature upon admission. Many are non-specific regarding diets. It is suggested to review the facility's Resident Agreement to verify what is offered re: diet and meals.

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## 3701-16-01 Definitions:

<https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/rules/final/3701-10-TO-19/3701-16/3701-16-01.pdf?la=en>

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

**Interpretation: Terms "complex therapeutic diet" and "therapeutic diet are interchangeable. The term "complex" is no longer used.**

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

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

**Interpretation: This includes liquids that have modified texture.**

(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

**Interpretation: This diet is ordered by a health care professional, is a diet other than a regular diet and is limited to the items noted previously.**

**This diet DOES NOT include diets such as 2 gram sodium and 1500 calorie diets.**

(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.

**Interpretation: Supervising involves providing appropriate food, monitoring weight and intake and ensuring staff are providing appropriate foods on the diet.**

(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.

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## Summary of Definitions:

Diets fall under one of three categories:

1. Regular diet – no restrictions
2. Therapeutic diets – special diets (that do not require supervision)
3. Therapeutic diets – diets that require supervision

## Examples of Therapeutic diets involving special diets that DO NOT REQUIRE SUPERVISION:

- No Added Salt
- House Diabetic
- Regular Diet with Small Portions
- Regular Diet with Large Portions
- Dental Soft Diet
- Thickened Liquids (Nectar, honey or pudding) \*\*It may be best standard of practice to include residents receiving thickened liquids to routine monitoring and supervision\*\*.
- No Concentrated Sweets
- Mechanical Soft Diet
- Pureed Diet

## Examples of Therapeutic Diets THAT DO REQUIRE SUPERVISION:

- Dysphagia Diet
- Renal Diet
- 1800 calorie diet
- 40 gram fat diet
- 60 gram protein diet
- 2 gram sodium diet
- 4 gram sodium diet

## 3701-16-10 Dietary services; supervision of therapeutic diets

Each residential care facility that elects to prepare special diets other than therapeutic diets shall:

- (1) Prepare and provide the special diets in accordance with the orders of a physician or other licensed health professional acting within their scope of practice, or a dietitian; and
- (2) Adjust special diet menus as ordered by the resident's attending physician or other licensed health professional acting within their scope of practice, or a dietitian.

Each residential care facility which elects to supervise therapeutic diets shall make available three daily meals in accordance with paragraph (B) of this rule and provide or arrange for a dietitian to plan, direct and implement dietary services that meet the residents' nutritional needs and comply with the requirements of this rule and for residents on therapeutic diets on an ongoing basis:

- (1) Determine that the diet ordered is appropriate according to the resident's individual nutritional assessment;
- (2) Monitor the resident's nutritional intake and acceptance of the diet;
- (3) Evaluate the home's compliance in the provision of the diet; and
- (4) Adjust nutritional assessments and diets as needed.

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### **Interpretation:**

**All RCF's that "supervise therapeutic diets" must employ a dietitian in some manner (consultant, employee etc.).**

(K) If required by paragraph (J) of this rules, the dietitian shall oversee, monitor and assist in the training of food service staff in the preparation and serving of foods for therapeutic diets and consult quarterly with the food service staff. Trained unlicensed staff, including the dietary manager, may perform routine tasks that:

- (1) May be assigned pursuant to Chapter 4759 of the Revised Code and this rule; and
- (2) Do not require professional judgment or knowledge.

### **Interpretation:**

**If a facility agrees to provide a resident a diet other than a special diet the staff member providing the diet must be trained by a dietitian.**

**The type of diet driving this requirement would typically involve a diet that has a specific nutrient content (i.e.: 2000 mg sodium or 800 mg of phosphorous) or number in the name of the diet or a diet that implies more involved modifications.**

(A) Each residential care facility shall specify in its residential care facility policies and the resident agreements, required by rule 3701-16-07 of the Administrative Code, the amount and types of dietary services it provides. The facility shall elect to provide any of the following:

- (1) No meals;
  - (2) One, two, or three daily meals;
  - (3) Preparation of special diets other than therapeutic diets; one, two, or three daily meals; or
  - (4) Preparation and supervision of therapeutic diets. Each facility that elects to supervise therapeutic diets shall provide three daily meals and meet the requirements of this chapter of the Administrative Code for the supervision of therapeutic diets;
- Each residential care facility that provides meals shall include a variety of food accommodating religious restrictions and ethnic and cultural preferences of residents in accordance with the residential care facility's policy.

### **Interpretation:**

**The type of dietary service provided, as specified in each facility's policies, will drive what the dietary services responsibilities involve.**

(B) Each residential care facility that agrees to provide three daily meals for a resident shall make available at least three nourishing, palatable, attractive and appetizing meals at regular hours comparable to normal mealtimes in the community. The meals shall be capable of providing the dietary referenced intake of the "Food and Nutrition Board" of the "National Academy of Science", be based on a standard meal planning guide from a diet manual published by a dietitian, approved by a dietitian, or both. Food shall be prepared and served in a form that meets the resident's individual needs based on the assessment conducted pursuant to rule 3701-16-08 of the Administrative Code. There shall be no more than sixteen hours between the evening meal and breakfast. Each residential care facility that provides meals shall offer a nourishing snack, consisting of a choice of beverages and a food item from a basic food group, after the evening meal. Food substitutes of similar nutritive value shall be offered to residents who refuse the food served and serving size may be adjusted according to resident preference.

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The residential care facility shall accommodate a resident's preference or medical need to eat at different intervals.

### **3701-16-08 Resident health assessments**

(A) The residential care facility, in accordance with this rule shall require written initial and periodic health assessments of prospective and current residents. The different components of the health assessment may be performed by different licensed health professionals, consistent with the type of information required and the professional's scope of practice, as defined by applicable law.

(B) Each resident shall be initially assessed within forty-eight hours of admission, except that paragraphs (C)(11) and (C)(12) of this rule shall be performed within fourteen days after admission.

(C) The initial health assessment shall include documentation of the following:

(6) Nutrition and dietary requirements, including any food allergies and intolerances, food preferences, and need for any adaptive equipment, and needs for assistance and supervision of meals;

(7) Height, weight, and history of weight changes;

(D) Subsequent to the initial health assessment, the residential care facility assess each resident's health at least annually unless medically indicated sooner. The annual health assessment shall be performed within thirty days of the anniversary date of the resident's last health assessment. This health assessment shall include documentation of at least the following:

(2) Updated nutritional requirements, including any food allergies and intolerances;

(3) Height, weight and history of weight changes;

### **Interpretation:**

#### **At admission and annually a facility must identify:**

- **Diet**
- **Height and weight and history of changes**
- **Food allergies and food intolerances,**
- **Food preferences**
- **Need for adaptive equipment**

### **3701-16-09.1**

(C) In addition to the requirements of paragraphs (A) and (B) of this rule, each residential care facility that provides enteral tube feedings on a part-time intermittent basis shall:

(1) Establish in writing the types of enteral tube feedings that are routinely managed by the facility. The determination of the types of enteral tube feedings that are provided by the facility shall be based on staff education, staff competence, the amount of staff experience with the listed types of enteral tube feedings, and support services available in the facility;

(2) Develop and follow policies and procedures which assure that enteral tube feedings are prepared and offered as ordered and that sanitary conditions are maintained in procurement, storage, preparation, and the administration of the enteral tube feedings;

(3) Document the weight of the resident and the resident's acceptance and tolerance of the enteral tube feedings in accordance with policies and procedures developed by the dietitian and the nurse responsible for the overall nursing care of the resident; and

(4) Provide or arrange for a dietitian.

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## Questions to Ask:

- What do your facility policies and procedures dictate when a resident signs a facility agreement?
- What types of diets are you currently providing?
- Are you supervising diets?
- What type of documentation is completed?
- Are your staff adequately trained?

## References:

1. Ohio Administrative Code RCF 3701-16  
<https://www.odh.ohio.gov/en/rules/final/3701-10-19/3701-16>
2. Residential Care and Long-Term Care Rule and Regulation Updates with Application Recommendations. Diane Dew RD, LD, CSC; Ohio Consultant Dietitians in Health Care Facilities (OCD-HCF) Conference, April 20, 2018.
3. Amount and Type of Dietary Services Provided 3701-16-10. Diane Dew, RD, LD, CSC.

\*Interpretations are provided by Diane Dew, RD, LD, CSC and are used with her permission. Diane worked closely with experts from our licensing board and the Ohio Department of Health to clarify the Interpretations.