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132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 77

A BILL

To amend sections 5104.01, 5104.015, and 5104.99 1
and to enact sections 5104.0113, 5104.15, 2
5104.16, and 5104.17 of the Revised Code to 3
provide for the licensure of sick-child care 4
centers. 5

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

Section 1. That sections 5104.01, 5104.015, and 5104.99 be 6
amended and sections 5104.0113, 5104.15, 5104.16, and 5104.17 of 7
the Revised Code be enacted to read as follows: 8

Sec. 5104.01. As used in this chapter: 9

(A) "Administrator" means the person responsible for the 10
daily operation of a center, type A home, or type B home. The 11
administrator and the owner may be the same person. 12

(B) "Approved child day camp" means a child day camp 13
approved pursuant to section 5104.22 of the Revised Code. 14

(C) "Border state child care provider" means a child care 15
provider that is located in a state bordering Ohio and that is 16
licensed, certified, or otherwise approved by that state to 17



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provide child care. 18

(D) "Career pathways model" means an alternative pathway 19
to meeting the requirements to be a child-care staff member or 20
administrator that does both of the following: 21

(1) Uses a framework approved by the director of job and 22
family services to document formal education, training, 23
experience, and specialized credentials and certifications; 24

(2) Allows the child-care staff member or administrator to 25
achieve a designation as an early childhood professional level 26
one, two, three, four, five, or six. 27

(E) "Caretaker parent" means the father or mother of a 28
child whose presence in the home is needed as the caretaker of 29
the child, a person who has legal custody of a child and whose 30
presence in the home is needed as the caretaker of the child, a 31
guardian of a child whose presence in the home is needed as the 32
caretaker of the child, and any other person who stands in loco 33
parentis with respect to the child and whose presence in the 34
home is needed as the caretaker of the child. 35

(F) "Chartered nonpublic school" means a school that meets 36
standards for nonpublic schools prescribed by the state board of 37
education for nonpublic schools pursuant to section 3301.07 of 38
the Revised Code. 39

(G) "Child" includes an infant, toddler, preschool-age 40
child, or school-age child. 41

(H) "Child care block grant act" means the "Child Care and 42
Development Block Grant Act of 1990," established in section 43
5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 44
Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended. 45

(I) "Child day camp" means a program in which only school-age children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

(J) "Child care" means all of the following:

(1) Administering to the needs of infants, toddlers, preschool-age children, and school-age children outside of school hours;

(2) By persons other than their parents, guardians, or custodians;

(3) For any part of the twenty-four-hour day;

(4) In a place other than a child's own home, except that an in-home aide provides child care in the child's own home.

(K) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for

the purposes of this division, any children under six years of 75
age who are related to a licensee, administrator, or employee 76
and who are on the premises of the center shall be counted. 77
"Child day-care center" and "center" do not include any of the 78
following: 79

(1) A place located in and operated by a hospital, as 80
defined in section 3727.01 of the Revised Code, in which the 81
needs of children are administered to, if all the children whose 82
needs are being administered to are monitored under the on-site 83
supervision of a physician licensed under Chapter 4731. of the 84
Revised Code or a registered nurse licensed under Chapter 4723. 85
of the Revised Code, and the services are provided only for 86
children who, in the opinion of the child's parent, guardian, or 87
custodian, are exhibiting symptoms of a communicable disease or 88
other illness or are injured; 89

(2) A sick-child care center; 90

(3) A child day camp; 91

~~(3)~~ (4) A place that provides child care, but not publicly 92
funded child care, if all of the following apply: 93

(a) An organized religious body provides the child care; 94

(b) A parent, custodian, or guardian of at least one child 95
receiving child care is on the premises and readily accessible 96
at all times; 97

(c) The child care is not provided for more than thirty 98
days a year; 99

(d) The child care is provided only for preschool-age and 100
school-age children. 101

(L) "Child care resource and referral service 102

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| organization" means a community-based nonprofit organization | 103 |
| that provides child care resource and referral services but not | 104 |
| child care. | 105 |
| (M) "Child care resource and referral services" means all | 106 |
| of the following services: | 107 |
| (1) Maintenance of a uniform data base of all child care | 108 |
| providers in the community that are in compliance with this | 109 |
| chapter, including current occupancy and vacancy data; | 110 |
| (2) Provision of individualized consumer education to | 111 |
| families seeking child care; | 112 |
| (3) Provision of timely referrals of available child care | 113 |
| providers to families seeking child care; | 114 |
| (4) Recruitment of child care providers; | 115 |
| (5) Assistance in the development, conduct, and | 116 |
| dissemination of training for child care providers and provision | 117 |
| of technical assistance to current and potential child care | 118 |
| providers, employers, and the community; | 119 |
| (6) Collection and analysis of data on the supply of and | 120 |
| demand for child care in the community; | 121 |
| (7) Technical assistance concerning locally, state, and | 122 |
| federally funded child care and early childhood education | 123 |
| programs; | 124 |
| (8) Stimulation of employer involvement in making child | 125 |
| care more affordable, more available, safer, and of higher | 126 |
| quality for their employees and for the community; | 127 |
| (9) Provision of written educational materials to | 128 |
| caretaker parents and informational resources to child care | 129 |

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| providers; | 130 |
| (10) Coordination of services among child care resource | 131 |
| and referral service organizations to assist in developing and | 132 |
| maintaining a statewide system of child care resource and | 133 |
| referral services if required by the department of job and | 134 |
| family services; | 135 |
| (11) Cooperation with the county department of job and | 136 |
| family services in encouraging the establishment of parent | 137 |
| cooperative child care centers and parent cooperative type A | 138 |
| family day-care homes. | 139 |
| (N) "Child-care staff member" means an employee of a child | 140 |
| day-care center or type A family day-care home who is primarily | 141 |
| responsible for the care and supervision of children. The | 142 |
| administrator may be a part-time child-care staff member when | 143 |
| not involved in other duties. | 144 |
| (O) "Drop-in child day-care center," "drop-in center," | 145 |
| "drop-in type A family day-care home," and "drop-in type A home" | 146 |
| mean a center or type A home that provides child care or | 147 |
| publicly funded child care for children on a temporary, | 148 |
| irregular basis. | 149 |
| (P) "Employee" means a person who either: | 150 |
| (1) Receives compensation for duties performed in a child | 151 |
| day-care center or type A family day-care home; | 152 |
| (2) Is assigned specific working hours or duties in a | 153 |
| child day-care center or type A family day-care home. | 154 |
| (Q) "Employer" means a person, firm, institution, | 155 |
| organization, or agency that operates a child day-care center or | 156 |
| type A family day-care home subject to licensure under this | 157 |

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| chapter. | 158 |
| (R) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. | 159 160 161 162 163 164 |
| (S) "Head start program" means a comprehensive child development program serving birth to three years old and preschool-age children that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, and is licensed as a child day-care center. | 165 166 167 168 169 |
| (T) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded. | 170 171 172 |
| (U) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center's type A family day-care home's, or licensed type B family day-care home's compliance with licensing requirements. | 173 174 175 176 177 178 179 |
| (V) "Infant" means a child who is less than eighteen months of age. | 180 181 |
| (W) "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this | 182 183 184 185 186 |

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| chapter and any rules adopted under it. | 187 |
| (X) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers, type A family day-care homes, and licensed type B family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist. | 188 189 190 191 192 193 194 195 |
| (Y) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies. For the purposes of a provisional license issued under this chapter, the director shall also consider the number of available child-care staff members when determining "license capacity" for the provisional license. | 196 197 198 199 200 201 202 203 204 205 206 |
| (Z) "Licensed child care program" means any of the following: | 207 208 |
| (1) A child day-care center licensed by the department of job and family services pursuant to this chapter; | 209 210 |
| (2) A type A family day-care home or type B family day-care home licensed by the department of job and family services pursuant to this chapter; | 211 212 213 |
| (3) A licensed preschool program or licensed school child program. | 214 215 |

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensed type B family day-care home" and "licensed type B home" mean a type B family day-care home for which there is a valid license issued by the director of job and family services pursuant to section 5104.03 of the Revised Code.

(CC) "Licensee" means the owner of a child day-care center, type A family day-care home, or type B family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(DD) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(EE) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(FF) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation

or association is on the premises of the center or type A home 245
during its hours of operation. 246

(GG) "Part-time child day-care center," "part-time 247
center," "part-time type A family day-care home," and "part-time 248
type A home" mean a center or type A home that provides child 249
care or publicly funded child care for not more than four hours 250
a day for any child or not more than fifteen consecutive weeks 251
per year, regardless of the number of hours per day. 252

(HH) "Place of worship" means a building where activities 253
of an organized religious group are conducted and includes the 254
grounds and any other buildings on the grounds used for such 255
activities. 256

(II) "Preschool-age child" means a child who is three 257
years old or older but is not a school-age child. 258

(JJ) "Protective child care" means publicly funded child 259
care for the direct care and protection of a child to whom 260
either of the following applies: 261

(1) A case plan prepared and maintained for the child 262
pursuant to section 2151.412 of the Revised Code indicates a 263
need for protective care and the child resides with a parent, 264
stepparent, guardian, or another person who stands in loco 265
parentis as defined in rules adopted under section 5104.38 of 266
the Revised Code; 267

(2) The child and the child's caretaker either temporarily 268
reside in a facility providing emergency shelter for homeless 269
families or are determined by the county department of job and 270
family services to be homeless, and are otherwise ineligible for 271
publicly funded child care. 272

(KK) "Publicly funded child care" means administering to 273

the needs of infants, toddlers, preschool-age children, and 274
school-age children under age thirteen during any part of the 275
twenty-four-hour day by persons other than their caretaker 276
parents for remuneration wholly or in part with federal or state 277
funds, including funds available under the child care block 278
grant act, Title IV-A, and Title XX, distributed by the 279
department of job and family services. 280

(LL) "Religious activities" means any of the following: 281
worship or other religious services; religious instruction; 282
Sunday school classes or other religious classes conducted 283
during or prior to worship or other religious services; youth or 284
adult fellowship activities; choir or other musical group 285
practices or programs; meals; festivals; or meetings conducted 286
by an organized religious group. 287

(MM) "School-age child" means a child who is enrolled in 288
or is eligible to be enrolled in a grade of kindergarten or 289
above but is less than fifteen years old. 290

(NN) "School-age child care center" and "school-age child 291
type A home" mean a center or type A home that provides child 292
care for school-age children only and that does either or both 293
of the following: 294

(1) Operates only during that part of the day that 295
immediately precedes or follows the public school day of the 296
school district in which the center or type A home is located; 297

(2) Operates only when the public schools in the school 298
district in which the center or type A home is located are not 299
open for instruction with pupils in attendance. 300

(OO) "Sick-child care center" means a place that provides 301
child care, including administering to the needs of school-age 302

children during school hours, for children with short-term 303
illnesses or other medical conditions on a temporary, irregular 304
basis. A sick-child care center does not include a place located 305
in and operated by a hospital, as defined in section 3727.01 of 306
the Revised Code. 307

(PP) "Serious risk noncompliance" means a licensure or 308
certification rule violation that leads to a great risk of harm 309
to, or death of, a child, and is observable, not inferable. 310

~~(PP)~~(OO) "State median income" means the state median 311
income calculated by the department of development pursuant to 312
division (A) (1) (g) of section 5709.61 of the Revised Code. 313

~~(OO)~~(RR) "Title IV-A" means Title IV-A of the "Social 314
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 315

~~(RR)~~(SS) "Title XX" means Title XX of the "Social 316
Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 317

~~(SS)~~(TT) "Toddler" means a child who is at least eighteen 318
months of age but less than three years of age. 319

~~(TT)~~(UU) "Type A family day-care home" and "type A home" 320
mean a permanent residence of the administrator in which child 321
care or publicly funded child care is provided for seven to 322
twelve children at one time or a permanent residence of the 323
administrator in which child care is provided for four to twelve 324
children at one time if four or more children at one time are 325
under two years of age. In counting children for the purposes of 326
this division, any children under six years of age who are 327
related to a licensee, administrator, or employee and who are on 328
the premises of the type A home shall be counted. "Type A family 329
day-care home" and "type A home" do not include any child day 330
camp. 331

~~(UU)~~-(VV) "Type B family day-care home" and "type B home" 332
mean a permanent residence of the provider in which child care 333
is provided for one to six children at one time and in which no 334
more than three children are under two years of age at one time. 335
In counting children for the purposes of this division, any 336
children under six years of age who are related to the provider 337
and who are on the premises of the type B home shall be counted. 338
"Type B family day-care home" and "type B home" do not include 339
any child day camp. 340

Sec. 5104.015. The director of job and family services 341
shall adopt rules in accordance with Chapter 119. of the Revised 342
Code governing the operation of child day-care centers, 343
including parent cooperative centers, part-time centers, drop-in 344
centers, and school-age child care centers. The rules shall 345
reflect the various forms of child care and the needs of 346
children receiving child care or publicly funded child care and 347
shall include specific rules for school-age child care centers 348
that are developed in consultation with the department of 349
education. The rules shall not require an existing school 350
facility that is in compliance with applicable building codes to 351
undergo an additional building code inspection or to have 352
structural modifications. The rules shall include the following: 353

(A) Submission of a site plan and descriptive plan of 354
operation to demonstrate how the center proposes to meet the 355
requirements of this chapter and rules adopted pursuant to this 356
chapter for the initial license application; 357

(B) Standards for ensuring that the physical surroundings 358
of the center are safe and sanitary including the physical 359
environment, the physical plant, and the equipment of the 360
center; 361

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for ~~the isolation of children~~ isolating a child with a communicable disease and discharging that child to a parent or guardian or to a person or sick-child care center designated by the parent or guardian;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;

(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;

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| (L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met; | 390 391 392 393 |
| (M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee; | 394 395 396 |
| (N) Procedures for record keeping, organization, and administration; | 397 398 |
| (O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code; | 399 400 401 |
| (P) Inspection procedures; | 402 |
| (Q) Procedures and standards for setting initial license application fees; | 403 404 |
| (R) Procedures for receiving, recording, and responding to complaints about centers; | 405 406 |
| (S) Procedures for enforcing section 5104.04 of the Revised Code; | 407 408 |
| (T) A standard requiring the inclusion of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter; | 409 410 411 412 413 |
| (U) Requirements for the training of administrators and child-care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention; | 414 415 416 417 |

(V) Standards providing for the special needs of children 418
who are handicapped or who require treatment for health 419
conditions while the child is receiving child care or publicly 420
funded child care in the center; 421

(W) A procedure for reporting of injuries of children that 422
occur at the center; 423

~~(X) Standards for licensing child day care centers for 424
children with short term illnesses and other temporary medical- 425
conditions; 426~~

~~(Y) Minimum requirements for instructional time for child 427
day-care centers rated through the step up to quality program 428
established pursuant to section 5104.29 of the Revised Code; 429~~

~~(Z) (Y) Any other procedures and standards necessary to 430
carry out the provisions of this chapter regarding child day- 431
care centers. 432~~

Sec. 5104.0113. The director of job and family services, 433
in consultation with the director of health, shall adopt rules 434
in accordance with Chapter 119. of the Revised Code governing 435
the operation of sick-child care centers. The rules shall be 436
consistent with sections 5104.15 to 5104.17 of the Revised Code 437
and reflect the needs of children with short-term illnesses and 438
other temporary medical conditions. The rules shall include all 439
of the following: 440

(A) Standards for ensuring that the physical environment 441
and equipment of the sick-child care center are safe and 442
sanitary; 443

(B) Standards for the supervision, care, and discipline of 444
children receiving child care in the center; 445

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| <u>(C) Standards for qualifications and screening of staff</u> | 446 |
| <u>members;</u> | 447 |
| <u>(D) Standards for training and continuing education of</u> | 448 |
| <u>staff members, including recognizing the signs and symptoms of</u> | 449 |
| <u>illnesses, administering medications, making referrals to</u> | 450 |
| <u>pediatric specialists or facilities, and communicating with</u> | 451 |
| <u>caretaker parents;</u> | 452 |
| <u>(E) Admissions policies and procedures;</u> | 453 |
| <u>(F) Health care policies and procedures, including all of</u> | 454 |
| <u>the following:</u> | 455 |
| <u>(1) Medical protocols for specific illnesses or symptoms,</u> | 456 |
| <u>developed by a physician who is board-certified in family</u> | 457 |
| <u>medicine or general pediatrics, as those designations are issued</u> | 458 |
| <u>by a medical specialty certifying board recognized by the</u> | 459 |
| <u>American board of medical specialties or American osteopathic</u> | 460 |
| <u>association;</u> | 461 |
| <u>(2) Infection control, including universal and standard</u> | 462 |
| <u>precautions that shall be used by each staff member. The rules</u> | 463 |
| <u>shall define and establish requirements for universal and</u> | 464 |
| <u>standard precautions that include the following:</u> | 465 |
| <u>(a) Appropriate use of hand washing;</u> | 466 |
| <u>(b) Disinfection and sterilization of equipment, linens,</u> | 467 |
| <u>furniture, walls, flooring, toilets, and other objects;</u> | 468 |
| <u>(c) Handling and disposal of needles and other sharp</u> | 469 |
| <u>instruments;</u> | 470 |
| <u>(d) Wearing and disposal of gloves and other protective</u> | 471 |
| <u>garments and devices.</u> | 472 |

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| <u>(G) Emergency procedures, including procedures for making referrals or transfers to pediatric specialists or facilities;</u> | 473 |
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| <u>(H) Standards for record keeping;</u> | 475 |
| <u>(I) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;</u> | 476 |
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| <u>(J) Inspection procedures;</u> | 479 |
| <u>(K) Procedures and standards for setting initial license application fees;</u> | 480 |
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| <u>(L) Procedures for receiving, recording, and responding to complaints about sick-child care centers;</u> | 482 |
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| <u>(M) Any other standards and procedures necessary to implement sections 5104.15 to 5104.17 of the Revised Code.</u> | 484 |
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| <u>Sec. 5104.15. (A) As used in this section and sections 5104.16 and 5104.17 of the Revised Code:</u> | 486 |
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| <u>(1) "Certified nurse practitioner," "licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code.</u> | 488 |
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| <u>(2) "Nurse aide" has the same meaning as in section 3721.21 of the Revised Code.</u> | 491 |
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| <u>(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.</u> | 493 |
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| <u>(B) The director of job and family services is responsible for licensing sick-child care centers. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a sick-child care center without a</u> | 496 |
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license issued under this section. The current license shall be 500
posted in a conspicuous place that is accessible to parents, 501
custodians, or guardians and employees of the sick-child care 502
center at all times when it is in operation. 503

(C) (1) Any person, firm, organization, institution, or 504
agency seeking to establish a sick-child care center shall apply 505
for a license to the director of job and family services on such 506
form as the director prescribes. The application shall include 507
all of the following: 508

(a) A site plan and proposal describing how the sick-child 509
care center proposes to satisfy the requirements of this section 510
and sections 5104.16 and 5104.17 of the Revised Code and rules 511
adopted pursuant to section 5104.0113 of the Revised Code; 512

(b) The maximum number of children served by the sick- 513
child care center at one time; 514

(c) The number of adults providing sick-child care for the 515
children; 516

(d) An admissions policy that meets the requirements of 517
section 5104.17 of the Revised Code; 518

(e) Any other information the director considers 519
necessary. 520

(2) Fees shall be set by the director pursuant to section 521
5104.0113 of the Revised Code and shall be paid at the time of 522
application for a license to operate a sick-child care center. 523
Fees collected under this section shall be paid into the state 524
treasury to the credit of the general revenue fund. 525

(D) When an application for a license is filed, the 526
director may investigate and inspect the sick-child care center 527

to determine whether it satisfies the requirements of this 528
section and sections 5104.16 and 5104.17 of the Revised Code and 529
rules adopted pursuant to section 5104.0113 of the Revised Code. 530
When the director is so satisfied, a license shall be issued as 531
soon as practicable in such form and manner as prescribed by the 532
director. Each sick-child care center license shall state the 533
name of the licensee, the name of the administrator, and the 534
address of the sick-child care center. The license shall be 535
valid until it is surrendered to the director or revoked. 536

(E) The director may deny an application or revoke a 537
license of a sick-child care center if it does not comply with 538
the requirements of this section and sections 5104.16 and 539
5104.17 of the Revised Code and rules adopted pursuant to 540
section 5104.0113 of the Revised Code. 541

(F) If the director finds, after notice and hearing 542
pursuant to Chapter 119. of the Revised Code, that any 543
applicant, person, firm, organization, institution, or agency 544
applying for licensure or licensed under this section is in 545
violation of any provision of this section and sections 5104.16 546
to 5104.18 of the Revised Code and rules adopted pursuant to 547
section 5104.0113 of the Revised Code, the director may issue an 548
order of denial to the applicant or an order of revocation to 549
the sick-child care center revoking the license previously 550
issued by the director. Upon the issuance of such an order, the 551
person whose application is denied or whose license is revoked 552
may appeal in accordance with section 119.12 of the Revised 553
Code. 554

(G) The surrender of a sick-child care center license to 555
the director or the withdrawal of an application for licensure 556
shall not prohibit the director from instituting any of the 557

actions set forth in this section. 558

(H) The director, upon determining that the sick-child 559
care center is operating without a license, shall notify the 560
attorney general, the prosecuting attorney of the county in 561
which the sick-child care center is located, or the city 562
attorney, village solicitor, or other chief legal officer of the 563
municipal corporation in which the sick-child care center is 564
located, that the sick-child care center is operating without a 565
license. Upon receipt of the notification, the attorney general, 566
prosecuting attorney, city attorney, village solicitor, or other 567
chief legal officer of a municipal corporation shall file a 568
complaint in the court of common pleas of the county in which 569
the sick-child care center is located requesting that the court 570
grant an order enjoining the owner from operating the sick-child 571
care center in violation of this section. The court shall grant 572
such injunctive relief upon a showing that the respondent named 573
in the complaint is operating a sick-child care center and is 574
doing so without a license. 575

Sec. 5104.16. (A) A sick-child care center shall satisfy 576
all of the following requirements: 577

(1) Have a physician, certified nurse practitioner, or 578
registered nurse on the premises whenever children are in care; 579

(2) Have a licensed practical nurse or nurse aide on the 580
premises whenever children are in care; 581

(3) Have a maximum number of children per staff member of 582
four to one; 583

(4) Have a maximum number of preschool-age children or 584
school-age children receiving care in each room of two to one; 585

(5) Provide a separate room for evaluating children before 586

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|--|--------------------------|
| <u>admission;</u> | 587 |
| <u>(6) Provide a separate room for children recovering from illness who are no longer contagious;</u> | 588 589 |
| <u>(7) If the sick-child care center admits children exhibiting symptoms of or diagnosed with chicken pox, provide a separate room for the care of those children that is ventilated separately from the rest of the sick-child care center;</u> | 590 591 592 593 |
| <u>(8) Provide a separate room for children exhibiting symptoms of gastrointestinal illnesses;</u> | 594 595 |
| <u>(9) For each room where child care is provided, include within the room or immediately adjacent to the room at least one toilet and one sink;</u> | 596 597 598 |
| <u>(10) Have an area set aside for play, entertainment, education, and other activities;</u> | 599 600 |
| <u>(11) Provide each child with a crib, bed, or cot, depending upon the child's age or physical size, and appropriate bed linens for the child's own use while at the sick-child care center;</u> | 601 602 603 604 |
| <u>(12) Install electrical outlet covers or plates, childproof window locks and door latches, corner and edge bumpers for sharp edges, and nonslip, easily maintained floor surfaces;</u> | 605 606 607 608 |
| <u>(13) Meet the guidelines for hand hygiene established by the federal centers for disease control and prevention and presented in the document titled "Guideline for Hand Hygiene in Health-Care Settings" or a successor document;</u> | 609 610 611 612 |
| <u>(14) Meet the standards regarding bloodborne pathogens in health care settings established by the federal occupational</u> | 613 614 |

safety and health administration and described in 29 C.F.R. 615
1910.1030; 616

(15) Have a referral network that provides for timely 617
consultation with pediatric subspecialists and, when necessary, 618
transfer of children to a hospital that offers more advanced 619
pediatric care, including access to an air and ground 620
transportation system that is responsive and appropriately 621
equipped and staffed to care for children of all ages. 622

(B) A sick-child care center's health care policies and 623
procedures shall be reviewed quarterly by a physician, certified 624
nurse practitioner, or registered nurse. 625

(C) A sick-child care center shall not provide child care 626
for any child who is not sick or does not have another short- 627
term medical condition. Rooms used to provide child care for 628
sick children shall not be used for any other child care purpose 629
at any time. 630

Sec. 5104.17. (A) (1) Each sick-child care center shall 631
develop a written policy governing the admission of children to 632
receive child care. The admissions policy shall include a 633
description of the types of illnesses and injuries for which a 634
child may be admitted to the sick-child care center and the 635
types for which a child may be excluded. 636

(2) At the following intervals, the admissions policy 637
shall be reviewed and approved by a physician who is board- 638
certified in family medicine or general pediatrics, as those 639
designations are issued by a medical specialty certifying board 640
recognized by the American board of medical specialties or 641
American osteopathic association, in consultation with a 642
physician, certified nurse practitioner, or registered nurse 643

affiliated with the sick-child care center who performs or will 644
perform the evaluations described in division (B) of this 645
section: 646

(a) At the time of initial application for licensure; 647

(b) After the first six months of operation; 648

(c) Annually, after the first six months of operation. 649

(3) An applicant for a license under section 5104.15 of 650
the Revised Code shall include a report of the reviewing 651
physician's findings and the approved admissions policy with the 652
application for licensure. Subsequent reports of the reviewing 653
physician shall be kept on file at the sick-child care center 654
and made available for inspection. 655

(B) (1) A sick-child care center shall evaluate each child 656
before admitting the child to the sick-child care center. A 657
physician, certified nurse practitioner, or registered nurse 658
affiliated with the sick-child care center shall perform the 659
evaluation. An evaluation shall be performed for each day that 660
the child seeks admission to the sick-child care center. The 661
evaluation shall be based on all of the following: 662

(a) The child's symptoms; 663

(b) The likelihood of contagion; 664

(c) The health risks presented to other individuals; 665

(d) The sick-child care center's ability to provide 666
adequate care; 667

(e) The sick-child care center's admissions policy. 668

(2) The sick-child care center shall conduct a preliminary 669
evaluation over the telephone or internet before the caretaker 670

parent brings the child to the sick-child care center. Based on 671
the preliminary evaluation, the physician, certified nurse 672
practitioner, or registered nurse shall notify the caretaker 673
parent whether the caretaker parent may bring the child to the 674
sick-child care center for further evaluation. 675

(3) If the physician, certified nurse practitioner, or 676
registered nurse determines that the caretaker parent may bring 677
the child to the center and the child is brought to the center, 678
a second evaluation shall be performed before admission. This 679
evaluation shall include a physical examination of the child, an 680
assessment of the child's symptoms, and the taking of a medical 681
history. 682

(C) The decision of a physician, certified nurse 683
practitioner, or registered nurse not to admit a child to the 684
sick-child care center is final. 685

(D) Upon admission, the sick-child care center shall 686
provide to the child's caretaker parent a summary of its 687
policies and procedures, including its procedures for notifying 688
the caretaker parent in the event of an emergency. 689

Sec. 5104.99. (A) Whoever violates section 5104.02 of the 690
Revised Code shall be punished as follows: 691

(1) For each offense, the offender shall be fined not less 692
than one hundred dollars nor more than five hundred dollars 693
multiplied by the number of children receiving child care at the 694
child day-care center or type A family day-care home that either 695
exceeds the number of children to which a type B family day-care 696
home may provide child care or, if the offender is a licensed 697
type A family day-care home that is operating as a child day- 698
care center without being licensed as a center, exceeds the 699

license capacity of the type A home. 700

(2) In addition to the fine specified in division (A)(1) 701
of this section, all of the following apply: 702

(a) Except as provided in divisions (A)(2)(b), (c), and 703
(d) of this section, the court shall order the offender to 704
reduce the number of children to which it provides child care to 705
a number that does not exceed either the number of children to 706
which a type B family day-care home may provide child care or, 707
if the offender is a licensed type A family day-care home that 708
is operating as a child day-care center without being licensed 709
as a center, the license capacity of the type A home. 710

(b) If the offender previously has been convicted of or 711
pleaded guilty to one violation of section 5104.02 of the 712
Revised Code, the court shall order the offender to cease the 713
provision of child care to any person until it obtains a child 714
day-care center license or a type A family day-care home 715
license, as appropriate, under section 5104.03 of the Revised 716
Code. 717

(c) If the offender previously has been convicted of or 718
pleaded guilty to two violations of section 5104.02 of the 719
Revised Code, the offender is guilty of a misdemeanor of the 720
first degree, and the court shall order the offender to cease 721
the provision of child care to any person until it obtains a 722
child day-care center license or a type A family day-care home 723
license, as appropriate, under section 5104.03 of the Revised 724
Code. The court shall impose the fine specified in division (A) 725
(1) of this section and may impose an additional fine provided 726
that the total amount of the fines so imposed does not exceed 727
the maximum fine authorized for a misdemeanor of the first 728
degree under section 2929.28 of the Revised Code. 729

(d) If the offender previously has been convicted of or 730
pleaded guilty to three or more violations of section 5104.02 of 731
the Revised Code, the offender is guilty of a felony of the 732
fifth degree, and the court shall order the offender to cease 733
the provision of child care to any person until it obtains a 734
child day-care center license or a type A family day-care home 735
license, as appropriate, under section 5104.03 of the Revised 736
Code. The court shall impose the fine specified in division (A) 737
(1) of this section and may impose an additional fine provided 738
that the total amount of the fines so imposed does not exceed 739
the maximum fine authorized for a felony of the fifth degree 740
under section 2929.18 of the Revised Code. 741

(B) Whoever violates division (M) (4) of section 5104.013 742
of the Revised Code is guilty of a misdemeanor of the first 743
degree. If the offender is a licensee of a center, type A home, 744
or licensed type B home, the conviction shall constitute grounds 745
for denial or revocation of an application for licensure 746
pursuant to section 5104.04 of the Revised Code. Except as 747
otherwise provided in this division, the offense established 748
under division (M) (4) of section 5104.013 of the Revised Code is 749
a strict liability offense, and section 2901.20 of the Revised 750
Code does not apply. If the offender is a person eighteen years 751
of age or older residing in a type A home or licensed type B 752
home or is an employee of a center, type A home, or licensed 753
type B home and if the licensee had knowledge of, and acquiesced 754
in, the commission of the offense, the conviction shall 755
constitute grounds for denial or revocation of an application 756
for licensure pursuant to section 5104.04 of the Revised Code. 757

(C) Whoever violates section 5104.09 of the Revised Code 758
is guilty of a misdemeanor of the third degree. 759

(D) Whoever violates section 5104.15 of the Revised Code 760
shall be punished as follows: 761

(1) For each offense, the offender shall be fined not less 762
than one hundred dollars nor more than five hundred dollars 763
multiplied by the average number of children per day receiving 764
child care at the sick-child care center. 765

(2) In addition to the fine specified in division (D)(1) 766
of this section, all of the following apply: 767

(a) Except as provided in divisions (D)(2)(b), (c), and 768
(d) of this section, the court shall order the offender to 769
reduce the number of children for which it provides child care 770
to a number that does not exceed the number of children for 771
which a type B family day-care home may provide child care. 772

(b) If the offender previously has been convicted of or 773
pleaded guilty to one violation of section 5104.15 of the 774
Revised Code, the court shall order the offender to cease the 775
provision of child care for any child until it obtains a sick- 776
child care center license under section 5104.15 of the Revised 777
Code. 778

(c) If the offender previously has been convicted of or 779
pleaded guilty to two violations of section 5104.15 of the 780
Revised Code, the offender is guilty of a misdemeanor of the 781
first degree, and the court shall order the offender to cease 782
the provision of child care for any child until it obtains a 783
sick-child care center license under section 5104.15 of the 784
Revised Code. The court shall impose the fine specified in 785
division (D)(1) of this section and may impose an additional 786
fine provided that the total amount of the fines so imposed does 787
not exceed the maximum fine authorized for a misdemeanor of the 788

first degree under section 2929.28 of the Revised Code. 789

(d) If the offender previously has been convicted of or 790
pleaded guilty to three or more violations of section 5104.15 of 791
the Revised Code, the offender is guilty of a felony of the 792
fifth degree, and the court shall order the offender to cease 793
the provision of child care for any child until it obtains a 794
sick-child care center license under section 5104.15 of the 795
Revised Code. The court shall impose the fine specified in 796
division (D)(1) of this section and may impose an additional 797
fine provided that the total amount of the fines so imposed does 798
not exceed the maximum fine authorized for a felony of the fifth 799
degree under section 2929.18 of the Revised Code. 800

Section 2. That existing sections 5104.01, 5104.015, and 801
5104.99 of the Revised Code are hereby repealed. 802